



# ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೫೨ Volume 152	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಆಗಸ್ಟ್ ೩, ೨೦೧೭ (ಶ್ರಾವಣ ೧೨, ಶಕ ವರ್ಷ ೧೯೩೯) Bengaluru, Thursday, August 3, 2017 (Shravana 12, Shaka Varsha 1939)	ಸಂಚಿಕೆ ೩೧ Issue 31
-------------------------	---	-----------------------

## ಭಾಗ ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು,  
ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ  
ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು  
ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ  
ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 10 ಕೇಶಾಪ್ರ 2017, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 03-05-2017

ದಿನಾಂಕ 12-04-2017 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ (1) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ  
The Central Goods and Service Tax Act, 2017 (No. 12 of 2017) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು  
ಪ್ರಕಟಿಸಲಾಗಿದೆ.

### MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 12th April, 2017/Chaitra 22, 1939 (Saka)

The following Act of Parliament received the assent of the President on the  
12th April, 2017, and is hereby published for general information:—

#### THE CENTRAL GOODS AND SERVICES TAX ACT, 2017

No. 12 OF 2017

[12th April, 2017.]

An Act to make a provision for levy and collection of tax on intra-State supply of  
goods or services or both by the Central Government and for matters  
connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as  
follows:—

#### CHAPTER I

##### PRELIMINARY

- (1) This Act may be called the Central Goods and Services Tax Act, 2017.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification  
in the Official Gazette, appoint:

Short title,  
extent and  
commencement.

(೩೦೫)

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(1) “actionable claim” shall have the same meaning as assigned to it in section 3 of the Transfer of Property Act, 1882;

4 of 1882.

(2) “address of delivery” means the address of the recipient of goods or services or both indicated on the tax invoice issued by a registered person for delivery of such goods or services or both;

(3) “address on record” means the address of the recipient as available in the records of the supplier;

(4) “adjudicating authority” means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Central Board of Excise and Customs, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority and the Appellate Tribunal;

(5) “agent” means a person, including a factor, broker, commission agent, *arhatia*, *del credere* agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another;

(6) “aggregate turnover” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;

(7) “agriculturist” means an individual or a Hindu Undivided Family who undertakes cultivation of land—

(a) by own labour, or

(b) by the labour of family, or

(c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family;

(8) “Appellate Authority” means an authority appointed or authorised to hear appeals as referred to in section 107;

(9) “Appellate Tribunal” means the Goods and Services Tax Appellate Tribunal constituted under section 109;

(10) “appointed day” means the date on which the provisions of this Act shall come into force;

(11) “assessment” means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment;

(12) “associated enterprises” shall have the same meaning as assigned to it in section 92A of the Income-tax Act, 1961;

43 of 1961.

(13) “audit” means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made thereunder;

(14) “authorised bank” shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable under this Act;

(15) “authorised representative” means the representative as referred to in section 116;

54 of 1963.

(16) “Board” means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963;

(17) “business” includes—

(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

(b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);

(c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;

(d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;

(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;

(f) admission, for a consideration, of persons to any premises;

(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

(h) services provided by a race club by way of totalisator or a licence to book maker in such club ; and

(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

(18) “business vertical” means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.

*Explanation.*—For the purposes of this clause, factors that should be considered in determining whether goods or services are related include—

(a) the nature of the goods or services;

(b) the nature of the production processes;

(c) the type or class of customers for the goods or services;

(d) the methods used to distribute the goods or supply of services; and

(e) the nature of regulatory environment (wherever applicable), including banking, insurance, or public utilities;

(19) “capital goods” means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business;

(20) “casual taxable person” means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business;

(21) “central tax” means the central goods and services tax levied under section 9;

(22) “cess” shall have the same meaning as assigned to it in the Goods and Services Tax (Compensation to States) Act;

(23) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949; 38 of 1949.

(24) “Commissioner” means the Commissioner of central tax and includes the Principal Commissioner of central tax appointed under section 3 and the Commissioner of integrated tax appointed under the Integrated Goods and Services Tax Act;

(25) “Commissioner in the Board” means the Commissioner referred to in section 168;

(26) “common portal” means the common goods and services tax electronic portal referred to in section 146;

(27) “common working days” in respect of a State or Union territory shall mean such days in succession which are not declared as gazetted holidays by the Central Government or the concerned State or Union territory Government;

(28) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980; 56 of 1980.

(29) “competent authority” means such authority as may be notified by the Government;

(30) “composite supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

*Illustration.— Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;*

(31) “consideration” in relation to the supply of goods or services or both includes—

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

(32) “continuous supply of goods” means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify;

(33) “continuous supply of services” means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify;

(34) “conveyance” includes a vessel, an aircraft and a vehicle;

23 of 1959.

(35) “cost accountant” means a cost accountant as defined in clause (c) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959;

(36) “Council” means the Goods and Services Tax Council established under article 279A of the Constitution;

(37) “credit note” means a document issued by a registered person under sub-section (1) of section 34;

(38) “debit note” means a document issued by a registered person under sub-section (3) of section 34;

(39) “deemed exports” means such supplies of goods as may be notified under section 147;

(40) “designated authority” means such authority as may be notified by the Board;

21 of 2000.

(41) “document” includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information Technology Act, 2000;

(42) “drawback” in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods;

(43) “electronic cash ledger” means the electronic cash ledger referred to in sub-section (1) of section 49;

(44) “electronic commerce” means the supply of goods or services or both, including digital products over digital or electronic network;

(45) “electronic commerce operator” means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;

(46) “electronic credit ledger” means the electronic credit ledger referred to in sub-section (2) of section 49;

(47) “exempt supply” means supply of any goods or services or both which attracts *nil* rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

(48) “existing law” means any law, notification, order, rule or regulation relating to levy and collection of duty or tax on goods or services or both passed or made before the commencement of this Act by Parliament or any Authority or person having the power to make such law, notification, order, rule or regulation;

(49) “family” means,—

(i) the spouse and children of the person, and

(ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person;

(50) “fixed establishment” means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;

(51) “Fund” means the Consumer Welfare Fund established under section 57;

(52) “goods” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

(53) “Government” means the Central Government;

(54) “Goods and Services Tax (Compensation to States) Act” means the Goods and Services Tax (Compensation to States) Act, 2017;

(55) “goods and services tax practitioner” means any person who has been approved under section 48 to act as such practitioner;

(56) “India” means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters;

80 of 1976.

(57) “Integrated Goods and Services Tax Act” means the Integrated Goods and Services Tax Act, 2017;

(58) “integrated tax” means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act;

(59) “input” means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business;

(60) “input service” means any service used or intended to be used by a supplier in the course or furtherance of business;

(61) “Input Service Distributor” means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;

(62) “input tax” in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—

(a) the integrated goods and services tax charged on import of goods;

(b) the tax payable under the provisions of sub-sections (3) and (4) of section 9;

(c) the tax payable under the provisions of sub-sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;

(d) the tax payable under the provisions of sub-sections (3) and (4) of section 9 of the respective State Goods and Services Tax Act; or

(e) the tax payable under the provisions of sub-sections (3) and (4) of section 7 of the Union Territory Goods and Services Tax Act,

but does not include the tax paid under the composition levy;

(63) “input tax credit” means the credit of input tax;

(64) “intra-State supply of goods” shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act;

(65) “intra-State supply of services” shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act;

(66) “invoice” or “tax invoice” means the tax invoice referred to in section 31;

(67) “inward supply” in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration;



(68) “job work” means any treatment or process undertaken by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly;

(69) “local authority” means—

(a) a “Panchayat” as defined in clause (d) of article 243 of the Constitution;

(b) a “Municipality” as defined in clause (e) of article 243P of the Constitution;

(c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;

(d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;

(e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;

(f) a Development Board constituted under article 371 of the Constitution; or

(g) a Regional Council constituted under article 371A of the Constitution;

(70) “location of the recipient of services” means,—

(a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and

(d) in absence of such places, the location of the usual place of residence of the recipient;

(71) “location of the supplier of services” means,—

(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provisions of the supply; and

(d) in absence of such places, the location of the usual place of residence of the supplier;

(72) “manufacture” means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term “manufacturer” shall be construed accordingly;

(73) “market value” shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods or services or both of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related;

(74) “mixed supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

*Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a*

*single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;*

(75) “money” means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;

(76) “motor vehicle” shall have the same meaning as assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988;

59 of 1988.

(77) “non-resident taxable person” means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India;

(78) “non-taxable supply” means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;

(79) “non-taxable territory” means the territory which is outside the taxable territory;

(80) “notification” means a notification published in the Official Gazette and the expressions “notify” and “notified” shall be construed accordingly;

(81) “other territory” includes territories other than those comprising in a State and those referred to in sub-clauses (a) to (e) of clause (114) ;

(82) “output tax” in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;

(83) “outward supply” in relation to a taxable person, means supply of goods or services or both, whether by sale, transfer, barter, exchange, licence, rental, lease or disposal or any other mode, made or agreed to be made by such person in the course or furtherance of business;

(84) “person” includes—

(a) an individual;

(b) a Hindu Undivided Family;

(c) a company;

(d) a firm;

(e) a Limited Liability Partnership;

(f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;

(g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013;

18 of 2013.

(h) any body corporate incorporated by or under the laws of a country outside India;

(i) a co-operative society registered under any law relating to co-operative societies;



21 of 1860.

(j) a local authority;

(k) Central Government or a State Government;

(l) society as defined under the Societies Registration Act, 1860;

(m) trust; and

(n) every artificial juridical person, not falling within any of the above;

(85) “place of business” includes—

(a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or

(b) a place where a taxable person maintains his books of account; or

(c) a place where a taxable person is engaged in business through an agent, by whatever name called;

(86) “place of supply” means the place of supply as referred to in Chapter V of the Integrated Goods and Services Tax Act;

(87) “prescribed” means prescribed by rules made under this Act on the recommendations of the Council;

(88) “principal” means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both;

(89) “principal place of business” means the place of business specified as the principal place of business in the certificate of registration;

(90) “principal supply” means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;

(91) “proper officer” in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board;

(92) “quarter” shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year;

(93) “recipient” of supply of goods or services or both, means—

(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied;

(94) “registered person” means a person who is registered under section 25 but does not include a person having a Unique Identity Number;

(95) “regulations” means the regulations made by the Board under this Act on the recommendations of the Council;

(96) “removal” in relation to goods, means—

(a) despatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier; or

(b) collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient;

(97) “return” means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder;

(98) “reverse charge” means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act;

(99) “Revisional Authority” means an authority appointed or authorised for revision of decision or orders as referred to in section 108;

(100) “Schedule” means a Schedule appended to this Act;

(101) “securities” shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956;

42 of 1956.

(102) “services” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

(103) “State” includes a Union territory with Legislature;

(104) “State tax” means the tax levied under any State Goods and Services Tax Act;

(105) “supplier” in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;

(106) “tax period” means the period for which the return is required to be furnished;

(107) “taxable person” means a person who is registered or liable to be registered under section 22 or section 24;

(108) “taxable supply” means a supply of goods or services or both which is leviable to tax under this Act;

(109) “taxable territory” means the territory to which the provisions of this Act apply;

(110) “telecommunication service” means service of any description (including electronic mail, voice mail, data services, audio text services, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electromagnetic means;

(111) “the State Goods and Services Tax Act” means the respective State Goods and Services Tax Act, 2017;

(112) “turnover in State” or “turnover in Union territory” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory

tax, integrated tax and cess;

(113) “usual place of residence” means—

(a) in case of an individual, the place where he ordinarily resides;

(b) in other cases, the place where the person is incorporated or otherwise legally constituted;

(114) “Union territory” means the territory of—

(a) the Andaman and Nicobar Islands;

(b) Lakshadweep;

(c) Dadra and Nagar Haveli;

(d) Daman and Diu;

(e) Chandigarh; and

(f) other territory.

*Explanation.*—For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;

(115) “Union territory tax” means the Union territory goods and services tax levied under the Union Territory Goods and Services Tax Act;

(116) “Union Territory Goods and Services Tax Act” means the Union Territory Goods and Services Tax Act, 2017;

(117) “valid return” means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full;

(118) “voucher” means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;

(119) “works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;

(120) words and expressions used and not defined in this Act but defined in the Integrated Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act shall have the same meaning as assigned to them in those Acts;

(121) any reference in this Act to a law which is not in force in the State of Jammu and Kashmir, shall, in relation to that State be construed as a reference to the corresponding law, if any, in force in that State.

## CHAPTER II

### ADMINISTRATION

**3.** The Government shall, by notification, appoint the following classes of officers for the purposes of this Act, namely:—

Officers under this Act.

(a) Principal Chief Commissioners of Central Tax or Principal Directors General of Central Tax,

(b) Chief Commissioners of Central Tax or Directors General of Central Tax,

(c) Principal Commissioners of Central Tax or Principal Additional Directors General of Central Tax,

(d) Commissioners of Central Tax or Additional Directors General of Central Tax,

(e) Additional Commissioners of Central Tax or Additional Directors of Central Tax,

(f) Joint Commissioners of Central Tax or Joint Directors of Central Tax,

(g) Deputy Commissioners of Central Tax or Deputy Directors of Central Tax,

(h) Assistant Commissioners of Central Tax or Assistant Directors of Central Tax, and

(i) any other class of officers as it may deem fit:

Provided that the officers appointed under the Central Excise Act, 1944 shall be deemed to be the officers appointed under the provisions of this Act. 1 of 1944.

Appointment of officers.

4. (1) The Board may, in addition to the officers as may be notified by the Government under section 3, appoint such persons as it may think fit to be the officers under this Act.

(2) Without prejudice to the provisions of sub-section (1), the Board may, by order, authorise any officer referred to in clauses (a) to (h) of section 3 to appoint officers of central tax below the rank of Assistant Commissioner of central tax for the administration of this Act.

Powers of officers.

5. (1) Subject to such conditions and limitations as the Board may impose, an officer of central tax may exercise the powers and discharge the duties conferred or imposed on him under this Act.

(2) An officer of central tax may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of central tax who is subordinate to him.

(3) The Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate his powers to any other officer who is subordinate to him.

(4) Notwithstanding anything contained in this section, an Appellate Authority shall not exercise the powers and discharge the duties conferred or imposed on any other officer of central tax.

Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances.

6. (1) Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify.

(2) Subject to the conditions specified in the notification issued under sub-section (1),—

(a) where any proper officer issues an order under this Act, he shall also issue an order under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as authorised by the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, under intimation to the jurisdictional officer of State tax or Union territory tax;

(b) where a proper officer under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under this Act on the same subject matter.

(3) Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act shall not lie before an officer appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.

## CHAPTER III

## LEVY AND COLLECTION OF TAX

7. (1) For the purposes of this Act, the expression “supply” includes—

Scope of supply.

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

(b) import of services for a consideration whether or not in the course or furtherance of business;

(c) the activities specified in Schedule I, made or agreed to be made without a consideration; and

(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

(2) Notwithstanding anything contained in sub-section (1),—

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,

shall be treated neither as a supply of goods nor a supply of services.

(3) Subject to the provisions of sub-sections (1) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

(a) a supply of goods and not as a supply of services; or

(b) a supply of services and not as a supply of goods.

8. The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—

Tax liability on composite and mixed supplies.

(a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

9. (1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

Levy and collection.

(2) The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

(3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(4) The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(5) The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Composition  
levy.

**10.** (1) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not exceeding,—

(a) one per cent. of the turnover in State or turnover in Union territory in case of a manufacturer,

(b) two and a half per cent. of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and

(c) half per cent. of the turnover in State or turnover in Union territory in case of other suppliers,

subject to such conditions and restrictions as may be prescribed:

Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore rupees, as may be recommended by the Council.

(2) The registered person shall be eligible to opt under sub-section (1), if:—

(a) he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II;

(b) he is not engaged in making any supply of goods which are not leviable to tax under this Act;

(c) he is not engaged in making any inter-State outward supplies of goods;

(d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and

(e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:

Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.



(3) The option availed of by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1).

(4) A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

(5) If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 shall, *mutatis mutandis*, apply for determination of tax and penalty.

**11.** (1) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.

Power to grant exemption from tax.

(2) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.

(3) The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

*Explanation.*—For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

## CHAPTER IV

### TIME AND VALUE OF SUPPLY

**12.** (1) The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section.

Time of supply of goods.

(2) The time of supply of goods shall be the earlier of the following dates, namely:—

(a) the date of issue of invoice by the supplier or the last date on which he is required, under sub-section (1) of section 31, to issue the invoice with respect to the supply; or

(b) the date on which the supplier receives the payment with respect to the supply:

Provided that where the supplier of taxable goods receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.

*Explanation 1.*—For the purposes of clauses (a) and (b), “supply” shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

*Explanation 2.*—For the purposes of clause (b), “the date on which the supplier receives the payment” shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.

(3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:—

(a) the date of the receipt of goods; or

(b) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(c) the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.

(4) In case of supply of vouchers by a supplier, the time of supply shall be—

(a) the date of issue of voucher, if the supply is identifiable at that point; or

(b) the date of redemption of voucher, in all other cases.

(5) Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall—

(a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or

(b) in any other case, be the date on which the tax is paid.

(6) The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

Time of supply  
of services.

**13.** (1) The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section.

(2) The time of supply of services shall be the earliest of the following dates, namely:—

(a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or

(b) the date of provision of service, if the invoice is not issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or

(c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply:

Provided that where the supplier of taxable service receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.

*Explanation.*—For the purposes of clauses (a) and (b)—

(i) the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment;

(ii) “the date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

(3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely:—

(a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply:

Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

(4) In case of supply of vouchers by a supplier, the time of supply shall be—

(a) the date of issue of voucher, if the supply is identifiable at that point; or

(b) the date of redemption of voucher, in all other cases.

(5) Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall—

(a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or

(b) in any other case, be the date on which the tax is paid.

(6) The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

**14.** Notwithstanding anything contained in section 12 or section 13, the time of supply, where there is a change in the rate of tax in respect of goods or services or both, shall be determined in the following manner, namely:—

(a) in case the goods or services or both have been supplied before the change in rate of tax,—

(i) where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or

(ii) where the invoice has been issued prior to the change in rate of tax but payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or

(iii) where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in rate of tax, the time of supply shall be the date of receipt of payment;

(b) in case the goods or services or both have been supplied after the change in rate of tax,—

Change in rate of tax in respect of supply of goods or services.

(i) where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment; or

(ii) where the invoice has been issued and payment is received before the change in rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or

(iii) where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax, the time of supply shall be the date of issue of invoice:

Provided that the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax.

*Explanation.*—For the purposes of this section, “the date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

Value of  
taxable  
supply.

**15. (1)** The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

(2) The value of supply shall include—

(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

(c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

(d) interest or late fee or penalty for delayed payment of any consideration for any supply; and

(e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

*Explanation.*—For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

(3) The value of the supply shall not include any discount which is given—

(a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and

(b) after the supply has been effected, if—

(i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and

(ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

(4) Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed.

(5) Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.

*Explanation.*—For the purposes of this Act,—

(a) persons shall be deemed to be “related persons” if—

- (i) such persons are officers or directors of one another’s businesses;
- (ii) such persons are legally recognised partners in business;
- (iii) such persons are employer and employee;
- (iv) any person directly or indirectly owns, controls or holds twenty-five per cent. or more of the outstanding voting stock or shares of both of them;
- (v) one of them directly or indirectly controls the other;
- (vi) both of them are directly or indirectly controlled by a third person;
- (vii) together they directly or indirectly control a third person; or
- (viii) they are members of the same family;

(b) the term “person” also includes legal persons;

(c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

## CHAPTER V

### INPUT TAX CREDIT

**16.** (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

Eligibility and conditions for taking input tax credit.

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

- (a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;
- (b) he has received the goods or services or both.

*Explanation.*—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and

(d) he has furnished the return under section 39:

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a

period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

(3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.

43 of 1961.

(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Apportionment  
of credit and  
blocked  
credits.

**17. (1)** Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

(3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

(4) A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to fifty per cent. of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:

Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:

Provided further that the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:—

(a) motor vehicles and other conveyances except when they are used—

(i) for making the following taxable supplies, namely:—

(A) further supply of such vehicles or conveyances ; or

(B) transportation of passengers; or

(C) imparting training on driving, flying, navigating such vehicles or conveyances;

(ii) for transportation of goods;



(b) the following supply of goods or services or both—

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre;

(iii) rent-a-cab, life insurance and health insurance except where—

(A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or

(B) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and

(iv) travel benefits extended to employees on vacation such as leave or home travel concession;

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

*Explanation.*—For the purposes of clauses (c) and (d), the expression “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;

(e) goods or services or both on which tax has been paid under section 10;

(f) goods or services or both received by a non-resident taxable person except on goods imported by him;

(g) goods or services or both used for personal consumption;

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

(i) any tax paid in accordance with the provisions of sections 74, 129 and 130.

(6) The Government may prescribe the manner in which the credit referred to in sub-sections (1) and (2) may be attributed.

*Explanation.*—For the purposes of this Chapter and Chapter VI, the expression “plant and machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—

(i) land, building or any other civil structures;

(ii) telecommunication towers; and

(iii) pipelines laid outside the factory premises.

**18. (1)** Subject to such conditions and restrictions as may be prescribed—

(a) a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such

Availability of credit in special circumstances.

registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act;

(b) a person who takes registration under sub-section (3) of section 25 shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration;

(c) where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9:

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;

(d) where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relating to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable:

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.

(2) A registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply.

(3) Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.

(4) Where any registered person who has availed of input tax credit opts to pay tax under section 10 or, where the goods or services or both supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:

Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

(5) The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed.

(6) In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery determined under section 15, whichever is higher:

Provided that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15.

**19.** (1) The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on inputs sent to a job worker for job work.

Taking input tax credit in respect of inputs and capital goods sent for job work.

(2) Notwithstanding anything contained in clause (b) of sub-section (2) of section 16, the principal shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job work without being first brought to his place of business.

(3) Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise or are not supplied from the place of business of the job worker in accordance with clause (a) or clause (b) of sub-section (1) of section 143 within one year of being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out:

Provided that where the inputs are sent directly to a job worker, the period of one year shall be counted from the date of receipt of inputs by the job worker.

(4) The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on capital goods sent to a job worker for job work.

(5) Notwithstanding anything contained in clause (b) of sub-section (2) of section 16, the principal shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job work without being first brought to his place of business.

(6) Where the capital goods sent for job work are not received back by the principal within a period of three years of being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out:

Provided that where the capital goods are sent directly to a job worker, the period of three years shall be counted from the date of receipt of capital goods by the job worker.

(7) Nothing contained in sub-section (3) or sub-section (6) shall apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work.

*Explanation.*—For the purpose of this section, “principal” means the person referred to in section 143.

**20.** (1) The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed.

Manner of distribution of credit by Input Service Distributor.

(2) The Input Service Distributor may distribute the credit subject to the following conditions, namely:—

(a) the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed;

(b) the amount of the credit distributed shall not exceed the amount of credit available for distribution;

(c) the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;

(d) the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be *pro rata* on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;

(e) the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be *pro rata* on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.

*Explanation.*—For the purposes of this section,—

(a) the “relevant period” shall be—

(i) if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or

(ii) if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed;

(b) the expression “recipient of credit” means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;

(c) the term “turnover”, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.

Manner of recovery of credit distributed in excess.

**21.** Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 20 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest, and the provisions of section 73 or section 74, as the case may be, shall, *mutatis mutandis*, apply for determination of amount to be recovered.

## CHAPTER VI

### REGISTRATION

Persons liable for registration.

**22.** (1) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees:

Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.

(2) Every person who, on the day immediately preceding the appointed day, is registered or holds a licence under an existing law, shall be liable to be registered under this Act with effect from the appointed day.

(3) Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.

(4) Notwithstanding anything contained in sub-sections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, demerger of two or more companies pursuant to an order of a High Court, Tribunal

or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.

*Explanation.*—For the purposes of this section,—

(i) the expression “aggregate turnover” shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals;

(ii) the supply of goods, after completion of job work, by a registered job worker shall be treated as the supply of goods by the principal referred to in section 143, and the value of such goods shall not be included in the aggregate turnover of the registered job worker;

(iii) the expression “special category States” shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution.

**23. (1)** The following persons shall not be liable to registration, namely:—

Persons not  
liable for  
registration.

(a) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;

(b) an agriculturist, to the extent of supply of produce out of cultivation of land.

(2) The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.

**24.** Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act,—

Compulsory  
registration in  
certain cases.

(i) persons making any inter-State taxable supply;

(ii) casual taxable persons making taxable supply;

(iii) persons who are required to pay tax under reverse charge;

(iv) person who are required to pay tax under sub-section (5) of section 9;

(v) non-resident taxable persons making taxable supply;

(vi) persons who are required to deduct tax under section 51, whether or not separately registered under this Act;

(vii) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;

(viii) Input Service Distributor, whether or not separately registered under this Act;

(ix) persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52;

(x) every electronic commerce operator;

(xi) every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person; and

(xii) such other person or class of persons as may be notified by the Government on the recommendations of the Council.

**25. (1)** Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within

Procedure for  
registration.

thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed:

Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business.

*Explanation.*—Every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

(2) A person seeking registration under this Act shall be granted a single registration in a State or Union territory:

Provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed.

(3) A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.

(4) A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

(5) Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

(6) Every person shall have a Permanent Account Number issued under the Income-tax Act, 1961 in order to be eligible for grant of registration:

43 of 1961.

Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.

(7) Notwithstanding anything contained in sub-section (6), a non-resident taxable person may be granted registration under sub-section (1) on the basis of such other documents as may be prescribed.

(8) Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, proceed to register such person in such manner as may be prescribed.

(9) Notwithstanding anything contained in sub-section (1),—

(a) any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries; and

46 of 1947.

(b) any other person or class of persons, as may be notified by the Commissioner, shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.

(10) The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed.



(11) A certificate of registration shall be issued in such form and with effect from such date as may be prescribed.

(12) A registration or a Unique Identity Number shall be deemed to have been granted after the expiry of the period prescribed under sub-section (10), if no deficiency has been communicated to the applicant within that period.

**26.** (1) The grant of registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a grant of registration or the Unique Identity Number under this Act subject to the condition that the application for registration or the Unique Identity Number has not been rejected under this Act within the time specified in sub-section (10) of section 25.

Deemed registration.

(2) Notwithstanding anything contained in sub-section (10) of section 25, any rejection of application for registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a rejection of application for registration under this Act.

**27.** (1) The certificate of registration issued to a casual taxable person or a non-resident taxable person shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier and such person shall make taxable supplies only after the issuance of the certificate of registration:

Special provisions relating to casual taxable person and non-resident taxable person.

Provided that the proper officer may, on sufficient cause being shown by the said taxable person, extend the said period of ninety days by a further period not exceeding ninety days.

(2) A casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration under sub-section (1) of section 25, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought:

Provided that where any extension of time is sought under sub-section (1), such taxable person shall deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.

(3) The amount deposited under sub-section (2) shall be credited to the electronic cash ledger of such person and shall be utilised in the manner provided under section 49.

**28.** (1) Every registered person and a person to whom a Unique Identity Number has been assigned shall inform the proper officer of any changes in the information furnished at the time of registration or subsequent thereto, in such form and manner and within such period as may be prescribed.

Amendment of registration.

(2) The proper officer may, on the basis of information furnished under sub-section (1) or as ascertained by him, approve or reject amendments in the registration particulars in such manner and within such period as may be prescribed:

Provided that approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed:

Provided further that the proper officer shall not reject the application for amendment in the registration particulars without giving the person an opportunity of being heard.

(3) Any rejection or approval of amendments under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a rejection or approval under this Act.

**29.** (1) The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the

Cancellation of registration.

registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,—

(a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or

(b) there is any change in the constitution of the business; or

(c) the taxable person, other than the person registered under sub-section (3) of section 25, is no longer liable to be registered under section 22 or section 24.

(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,—

(a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or

(b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or

(c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or

(d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or

(e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

(3) The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

(4) The cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.

(5) Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed:

Provided that in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.

(6) The amount payable under sub-section (5) shall be calculated in such manner as may be prescribed.

Revocation  
of  
cancellation  
of  
registration.

**30.** (1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.

(2) The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application:

Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.

(3) The revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

## CHAPTER VII

### TAX INVOICE, CREDIT AND DEBIT NOTES

**31.** (1) A registered person supplying taxable goods shall, before or at the time of,— Tax invoice.

(a) removal of goods for supply to the recipient, where the supply involves movement of goods; or

(b) delivery of goods or making available thereof to the recipient, in any other case,

issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed:

Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

(2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:

Provided that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which—

(a) any other document issued in relation to the supply shall be deemed to be a tax invoice; or

(b) tax invoice may not be issued.

(3) Notwithstanding anything contained in sub-sections (1) and (2)—

(a) a registered person may, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him;

(b) a registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;

(c) a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed:

Provided that the registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;

(d) a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;

(e) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment;

(f) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;

(g) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue a payment voucher at the time of making payment to the supplier.

(4) In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.

(5) Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,—

(a) where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;

(b) where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;

(c) where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.

(6) In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.

(7) Notwithstanding anything contained in sub-section (1), where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

*Explanation.*—For the purposes of this section, the expression “tax invoice” shall include any revised invoice issued by the supplier in respect of a supply made earlier.

Prohibition of unauthorised collection of tax.

**32.** (1) A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.

(2) No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

Amount of tax to be indicated in tax invoice and other documents.

**33.** Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

Credit and debit notes.

**34.** (1) Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient a credit note containing such particulars as may be prescribed.

(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:

Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

(3) Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient a debit note containing such particulars as may be prescribed.

(4) Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

*Explanation.*—For the purposes of this Act, the expression “debit note” shall include a supplementary invoice.

## CHAPTER VIII

### ACCOUNTS AND RECORDS

**35. (1)** Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of—

Accounts and other records.

- (a) production or manufacture of goods;
- (b) inward and outward supply of goods or services or both;
- (c) stock of goods;
- (d) input tax credit availed;
- (e) output tax payable and paid; and
- (f) such other particulars as may be prescribed:

Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:

Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

(2) Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.

(3) The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.

(4) Where the Commissioner considers that any class of taxable person is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.

(5) Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant

and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.

(6) Subject to the provisions of clause (h) of sub-section (5) of section 17, where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74, as the case may be, shall, *mutatis mutandis*, apply for determination of such tax.

Period of retention of accounts.

**36.** Every registered person required to keep and maintain books of account or other records in accordance with the provisions of sub-section (1) of section 35 shall retain them until the expiry of seventy-two months from the due date of furnishing of annual return for the year pertaining to such accounts and records:

Provided that a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

## CHAPTER IX

### RETURNS

Furnishing details of outward supplies.

**37.** (1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed:

Provided that the registered person shall not be allowed to furnish the details of outward supplies during the period from the eleventh day to the fifteenth day of the month succeeding the tax period:

Provided further that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided also that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

(2) Every registered person who has been communicated the details under sub-section (3) of section 38 or the details pertaining to inward supplies of Input Service Distributor under sub-section (4) of section 38, shall either accept or reject the details so communicated, on or before the seventeenth day, but not before the fifteenth day, of the month succeeding the tax period and the details furnished by him under sub-section (1) shall stand amended accordingly.

(3) Any registered person, who has furnished the details under sub-section (1) for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a



short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

*Explanation.*—For the purposes of this Chapter, the expression “details of outward supplies” shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.

**38.** (1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, shall verify, validate, modify or delete, if required, the details relating to outward supplies and credit or debit notes communicated under sub-section (1) of section 37 to prepare the details of his inward supplies and credit or debit notes and may include therein, the details of inward supplies and credit or debit notes received by him in respect of such supplies that have not been declared by the supplier under sub-section (1) of section 37.

Furnishing  
details of  
inward  
supplies.

51 of 1975.

(2) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, the details of inward supplies of taxable goods or services or both, including inward supplies of goods or services or both on which the tax is payable on reverse charge basis under this Act and inward supplies of goods or services or both taxable under the Integrated Goods and Services Tax Act or on which integrated goods and services tax is payable under section 3 of the Customs Tariff Act, 1975, and credit or debit notes received in respect of such supplies during a tax period after the tenth day but on or before the fifteenth day of the month succeeding the tax period in such form and manner as may be prescribed:

Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

(3) The details of supplies modified, deleted or included by the recipient and furnished under sub-section (2) shall be communicated to the supplier concerned in such manner and within such time as may be prescribed.

(4) The details of supplies modified, deleted or included by the recipient in the return furnished under sub-section (2) or sub-section (4) of section 39 shall be communicated to the supplier concerned in such manner and within such time as may be prescribed.

(5) Any registered person, who has furnished the details under sub-section (2) for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (2) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

Furnishing of  
returns.

39. (1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed, on or before the twentieth day of the month succeeding such calendar month or part thereof.

(2) A registered person paying tax under the provisions of section 10 shall, for each quarter or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable and tax paid within eighteen days after the end of such quarter.

(3) Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within ten days after the end of such month.

(4) Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within thirteen days after the end of such month.

(5) Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within twenty days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier.

(6) The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein:

Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner.

(7) Every registered person, who is required to furnish a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return.

(8) Every registered person who is required to furnish a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period.

(9) Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, subject to payment of interest under this Act:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

(10) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him.

**40.** Every registered person who has made outward supplies in the period between the date on which he became liable to registration till the date on which registration has been granted shall declare the same in the first return furnished by him after grant of registration.

First return.

**41. (1)** Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger.

Claim of input tax credit and provisional acceptance thereof.

(2) The credit referred to in sub-section (1) shall be utilised only for payment of self-assessed output tax as per the return referred to in the said sub-section.

**42. (1)** The details of every inward supply furnished by a registered person (hereafter in this section referred to as the “recipient”) for a tax period shall, in such manner and within such time as may be prescribed, be matched—

Matching, reversal and reclaim of input tax credit.

(a) with the corresponding details of outward supply furnished by the corresponding registered person (hereafter in this section referred to as the “supplier”) in his valid return for the same tax period or any preceding tax period;

51 of 1975.

(b) with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him; and

(c) for duplication of claims of input tax credit.

51 of 1975.

(2) The claim of input tax credit in respect of invoices or debit notes relating to inward supply that match with the details of corresponding outward supply or with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him shall be finally accepted and such acceptance shall be communicated, in such manner as may be prescribed, to the recipient.

(3) Where the input tax credit claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.

(4) The duplication of claims of input tax credit shall be communicated to the recipient in such manner as may be prescribed.

(5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

(6) The amount claimed as input tax credit that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.

(7) The recipient shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5), if the supplier declares the details of the invoice or debit note in his valid return within the time specified in sub-section (9) of section 39.

(8) A recipient in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 50 on the amount so added from the date of availing of credit till the corresponding additions are made under the said sub-sections.

(9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the recipient by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the supplier.

(10) The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the recipient in his return for the month in which such contravention takes place and such recipient shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50.

Matching, reversal and reclaim of reduction in output tax liability.

**43.** (1) The details of every credit note relating to outward supply furnished by a registered person (hereafter in this section referred to as the “supplier”) for a tax period shall, in such manner and within such time as may be prescribed, be matched—

(a) with the corresponding reduction in the claim for input tax credit by the corresponding registered person (hereafter in this section referred to as the “recipient”) in his valid return for the same tax period or any subsequent tax period; and

(b) for duplication of claims for reduction in output tax liability.

(2) The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated, in such manner as may be prescribed, to the supplier.

(3) Where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.

(4) The duplication of claims for reduction in output tax liability shall be communicated to the supplier in such manner as may be prescribed.

(5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the recipient in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the supplier, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

(6) The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.

(7) The supplier shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the recipient declares the details of the credit note in his valid return within the time specified in sub-section (9) of section 39.

(8) A supplier in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 50 in respect of the amount so added from the date of such claim for reduction in the output tax liability till the corresponding additions are made under the said sub-sections.

(9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.

(10) The amount reduced from output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the supplier in his return for the month in which such contravention takes place and such supplier shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50.

**44.** (1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.

Annual return.

(2) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

**45.** Every registered person who is required to furnish a return under sub-section (1) of section 39 and whose registration has been cancelled shall furnish a final return within three months of the date of cancellation or date of order of cancellation, whichever is later, in such form and manner as may be prescribed.

Final return.

**46.** Where a registered person fails to furnish a return under section 39 or section 44 or section 45, a notice shall be issued requiring him to furnish such return within fifteen days in such form and manner as may be prescribed.

Notice to return defaulters.

**47.** (1) Any registered person who fails to furnish the details of outward or inward supplies required under section 37 or section 38 or returns required under section 39 or section 45 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.

Levy of late fee.

(2) Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent. of his turnover in the State or Union territory.

**48.** (1) The manner of approval of goods and services tax practitioners, their eligibility conditions, duties and obligations, manner of removal and other conditions relevant for their functioning shall be such as may be prescribed.

Goods and services tax practitioners.

(2) A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 in such manner as may be prescribed.

(3) Notwithstanding anything contained in sub-section (2), the responsibility for correctness of any particulars furnished in the return or other details filed by the goods and services tax practitioners shall continue to rest with the registered person on whose behalf such return and details are furnished.

## CHAPTER X

### PAYMENT OF TAX

**49.** (1) Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.

Payment of tax, interest, penalty and other amounts.

(2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be prescribed.



(3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

(4) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.

(5) The amount of input tax credit available in the electronic credit ledger of the registered person on account of—

(a) integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;

(b) the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;

(c) the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;

(d) the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;

(e) the central tax shall not be utilised towards payment of State tax or Union territory tax; and

(f) the State tax or Union territory tax shall not be utilised towards payment of central tax.

(6) The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of section 54.

(7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register in such manner as may be prescribed.

(8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:—

(a) self-assessed tax, and other dues related to returns of previous tax periods;

(b) self-assessed tax, and other dues related to the return of the current tax period;

(c) any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74.

(9) Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

*Explanation.*—For the purposes of this section,—

(a) the date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger;

(b) the expression,—

(i) “tax dues” means the tax payable under this Act and does not include interest, fee and penalty; and

(ii) “other dues” means interest, penalty, fee or any other amount payable under this Act or the rules made thereunder.

Interest on  
delayed  
payment of  
tax.

**50. (1)** Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.



(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

(3) A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified by the Government on the recommendations of the Council.

**51. (1)** Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—

Tax deduction  
at source.

(a) a department or establishment of the Central Government or State Government; or

(b) local authority; or

(c) Governmental agencies; or

(d) such persons or category of persons as may be notified by the Government on the recommendations of the Council,

(hereafter in this section referred to as “the deductor”), to deduct tax at the rate of one per cent. from the payment made or credited to the supplier (hereafter in this section referred to as “the deductee”) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:

Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

*Explanation.*—For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

(2) The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed.

(3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.

(4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.

(5) The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section (3) of section 39, in such manner as may be prescribed.

(6) If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.

(7) The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.

(8) The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54:

Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.

Collection of  
tax at source.

**52. (1)** Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the “operator”), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

*Explanation.*—For the purposes of this sub-section, the expression “net value of taxable supplies” shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

(2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.

(3) The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.

(4) Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month.

(5) Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year.

(6) If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

(7) The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.

(8) The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed.

(9) Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.

(10) The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in

his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.

(11) The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.

(12) Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—

(a) supplies of goods or services or both effected through such operator during any period; or

(b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers,

as may be specified in the notice.

(13) Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.

(14) Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees.

*Explanation.*—For the purposes of this section, the expression “concerned supplier” shall mean the supplier of goods or services or both making supplies through the operator.

**53.** On utilisation of input tax credit availed under this Act for payment of tax dues under the Integrated Goods and Services Tax Act in accordance with the provisions of sub-section (5) of section 49, as reflected in the valid return furnished under sub-section (1) of section 39, the amount collected as central tax shall stand reduced by an amount equal to such credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the central tax account to the integrated tax account in such manner and within such time as may be prescribed.

Transfer of input tax credit.

## CHAPTER XI

### REFUNDS

**54.** (1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed:

Refund of tax.

Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in the return furnished under section 39 in such manner as may be prescribed.

(2) A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of six months from the last day of the quarter in which such supply was received.

(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

Provided that no refund of unutilised input tax credit shall be allowed in cases other than—

(i) zero rated supplies made without payment of tax;

(ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:

Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

(4) The application shall be accompanied by—

(a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and

(b) such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:

Provided that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

(5) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57.

(6) Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.

(7) The proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.

(8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—

(a) refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies;

(b) refund of unutilised input tax credit under sub-section (3);

(c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;

(d) refund of tax in pursuance of section 77;

(e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or

(f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

(9) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any court or in any other provisions of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section (8).

(10) Where any refund is due under sub-section (3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may—

(a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;

(b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

*Explanation.*—For the purposes of this sub-section, the expression “specified date” shall mean the last date for filing an appeal under this Act.

(11) Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.

(12) Where a refund is withheld under sub-section (11), the taxable person shall, notwithstanding anything contained in section 56, be entitled to interest at such rate not exceeding six per cent. as may be notified on the recommendations of the Council, if as a result of the appeal or further proceedings he becomes entitled to refund.

(13) Notwithstanding anything to the contrary contained in this section, the amount of advance tax deposited by a casual taxable person or a non-resident taxable person under sub-section (2) of section 27, shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39.

(14) Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees.

*Explanation.*—For the purposes of this section,—

(1) “refund” includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilised input tax credit as provided under sub-section (3).

(2) “relevant date” means—

(a) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,—

(i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or

(ii) if the goods are exported by land, the date on which such goods pass the frontier; or

(iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;

(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;

(c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of—

(i) receipt of payment in convertible foreign exchange, where the supply of services had been completed prior to the receipt of such payment; or

(ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;

(d) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;

(e) in the case of refund of unutilised input tax credit under sub-section (3), the end of the financial year in which such claim for refund arises;

(f) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;

(g) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and

(h) in any other case, the date of payment of tax.

Refund in certain cases.

**55.** The Government may, on the recommendations of the Council, by notification, specify any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries and any other person or class of persons as may be specified in this behalf, who shall, subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them.

46 of 1947.

Interest on delayed refunds.

**56.** If any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under sub-section (1) of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax:

Provided that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent. as may be notified by the Government on the recommendations of the Council shall be payable in



respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.

*Explanation.*—For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).

**57.** The Government shall constitute a Fund, to be called the Consumer Welfare Fund and there shall be credited to the Fund,—

Consumer Welfare Fund.

- (a) the amount referred to in sub-section (5) of section 54;
- (b) any income from investment of the amount credited to the Fund; and
- (c) such other monies received by it,

in such manner as may be prescribed.

**58. (1)** All sums credited to the Fund shall be utilised by the Government for the welfare of the consumers in such manner as may be prescribed.

Utilisation of Fund.

(2) The Government or the authority specified by it shall maintain proper and separate account and other relevant records in relation to the Fund and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

## CHAPTER XII

### ASSESSMENT

**59.** Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39.

Self-assessment.

**60. (1)** Subject to the provisions of sub-section (2), where the taxable person is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto, he may request the proper officer in writing giving reasons for payment of tax on a provisional basis and the proper officer shall pass an order, within a period not later than ninety days from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him.

Provisional assessment.

(2) The payment of tax on provisional basis may be allowed, if the taxable person executes a bond in such form as may be prescribed, and with such surety or security as the proper officer may deem fit, binding the taxable person for payment of the difference between the amount of tax as may be finally assessed and the amount of tax provisionally assessed.

(3) The proper officer shall, within a period not exceeding six months from the date of the communication of the order issued under sub-section (1), pass the final assessment order after taking into account such information as may be required for finalizing the assessment:

Provided that the period specified in this sub-section may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Joint Commissioner or Additional Commissioner for a further period not exceeding six months and by the Commissioner for such further period not exceeding four years.

(4) The registered person shall be liable to pay interest on any tax payable on the supply of goods or services or both under provisional assessment but not paid on the due date specified under sub-section (7) of section 39 or the rules made thereunder, at the rate specified under sub-section (1) of section 50, from the first day after the due date of payment of tax in respect of the said supply of goods or services or both till the date of actual

payment, whether such amount is paid before or after the issuance of order for final assessment.

(5) Where the registered person is entitled to a refund consequent to the order of final assessment under sub-section (3), subject to the provisions of sub-section (8) of section 54, interest shall be paid on such refund as provided in section 56.

Scrutiny of returns.

**61.** (1) The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.

(2) In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard.

(3) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74.

Assessment of non-filers of returns.

**62.** (1) Notwithstanding anything to the contrary contained in section 73 or section 74, where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

(2) Where the registered person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 shall continue.

Assessment of unregistered persons.

**63.** Notwithstanding anything to the contrary contained in section 73 or section 74, where a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under sub-section (2) of section 29 but who was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates:

Provided that no such assessment order shall be passed without giving the person an opportunity of being heard.

Summary assessment in certain special cases.

**64.** (1) The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of Additional Commissioner or Joint Commissioner, proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue:

Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section.

(2) On an application made by the taxable person within thirty days from the date of receipt of order passed under sub-section (1) or on his own motion, if the Additional Commissioner or Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 73 or section 74.

## CHAPTER XIII

## AUDIT

**65.** (1) The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.

Audit by tax authorities.

(2) The officers referred to in sub-section (1) may conduct audit at the place of business of the registered person or in their office.

(3) The registered person shall be informed by way of a notice not less than fifteen working days prior to the conduct of audit in such manner as may be prescribed.

(4) The audit under sub-section (1) shall be completed within a period of three months from the date of commencement of the audit:

Provided that where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within three months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.

*Explanation.*—For the purposes of this sub-section, the expression “commencement of audit” shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of business, whichever is later.

(5) During the course of audit, the authorised officer may require the registered person,—

(i) to afford him the necessary facility to verify the books of account or other documents as he may require;

(ii) to furnish such information as he may require and render assistance for timely completion of the audit.

(6) On conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.

(7) Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.

**66.** (1) If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, he may, with the prior approval of the Commissioner, direct such registered person by a communication in writing to get his records including books of account examined and audited by a chartered accountant or a cost accountant as may be nominated by the Commissioner.

Special audit.

(2) The chartered accountant or cost accountant so nominated shall, within the period of ninety days, submit a report of such audit duly signed and certified by him to the said Assistant Commissioner mentioning therein such other particulars as may be specified:

Provided that the Assistant Commissioner may, on an application made to him in this behalf by the registered person or the chartered accountant or cost accountant or for any material and sufficient reason, extend the said period by a further period of ninety days.

(3) The provisions of sub-section (1) shall have effect notwithstanding that the accounts of the registered person have been audited under any other provisions of this Act or any other law for the time being in force.

(4) The registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit under sub-section (1) which is proposed to be used in any proceedings against him under this Act or the rules made thereunder.

(5) The expenses of the examination and audit of records under sub-section (1), including the remuneration of such chartered accountant or cost accountant, shall be determined and paid by the Commissioner and such determination shall be final.

(6) Where the special audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.

#### CHAPTER XIV

##### INSPECTION, SEARCH, SEIZURE AND ARREST

Power of inspection, search and seizure.

**67. (1)** Where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that—

(a) a taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under this Act or has indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act; or

(b) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act,

he may authorise in writing any other officer of central tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.

(2) Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of central tax to search and seize or may himself search and seize such goods, documents or books or things:

Provided that where it is not practicable to seize any such goods, the proper officer, or any officer authorised by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:

Provided further that the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.

(3) The documents, books or things referred to in sub-section (2) or any other documents, books or things produced by a taxable person or any other person, which have not been relied upon for the issue of notice under this Act or the rules made thereunder, shall be returned to such person within a period not exceeding thirty days of the issue of the said notice.

(4) The officer authorised under sub-section (2) shall have the power to seal or break open the door of any premises or to break open any *almirah*, electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, *almirah*, electronic devices, box or receptacle is denied.

(5) The person from whose custody any documents are seized under sub-section (2) shall be entitled to make copies thereof or take extracts therefrom in the presence of an

authorised officer at such place and time as such officer may indicate in this behalf except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.

(6) The goods so seized under sub-section (2) shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or on payment of applicable tax, interest and penalty payable, as the case may be.

(7) Where any goods are seized under sub-section (2) and no notice in respect thereof is given within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the period of six months may, on sufficient cause being shown, be extended by the proper officer for a further period not exceeding six months.

(8) The Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section (2), be disposed of by the proper officer in such manner as may be prescribed.

(9) Where any goods, being goods specified under sub-section (8), have been seized by a proper officer, or any officer authorised by him under sub-section (2), he shall prepare an inventory of such goods in such manner as may be prescribed.

2 of 1974.

(10) The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure, shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the word "Commissioner" were substituted.

(11) Where the proper officer has reasons to believe that any person has evaded or is attempting to evade the payment of any tax, he may, for reasons to be recorded in writing, seize the accounts, registers or documents of such person produced before him and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceedings under this Act or the rules made thereunder for prosecution.

(12) The Commissioner or an officer authorised by him may cause purchase of any goods or services or both by any person authorised by him from the business premises of any taxable person, to check the issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount so paid towards the goods after cancelling any tax invoice or bill of supply issued earlier.

**68.** (1) The Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.

Inspection of goods in movement.

(2) The details of documents required to be carried under sub-section (1) shall be validated in such manner as may be prescribed.

(3) Where any conveyance referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.

**69.** (1) Where the Commissioner has reasons to believe that a person has committed any offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) of section 132 which is punishable under clause (i) or (ii) of

Power to arrest.



sub-section (1), or sub-section (2) of the said section, he may, by order, authorise any officer of central tax to arrest such person.

(2) Where a person is arrested under sub-section (1) for an offence specified under sub-section (5) of section 132, the officer authorised to arrest the person shall inform such person of the grounds of arrest and produce him before a Magistrate within twenty-four hours.

(3) Subject to the provisions of the Code of Criminal Procedure, 1973,—

2 of 1974.

(a) where a person is arrested under sub-section (1) for any offence specified under sub-section (4) of section 132, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate;

(b) in the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station.

Power to  
summon  
persons to  
give evidence  
and produce  
documents.

**70.** (1) The proper officer under this Act shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908.

5 of 1908

(2) Every such inquiry referred to in sub-section (1) shall be deemed to be a “judicial proceedings” within the meaning of section 193 and section 228 of the Indian Penal Code.

45 of 1860.

Access to  
business  
premises.

**71.** (1) Any officer under this Act, authorised by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

(2) Every person in charge of place referred to in sub-section (1) shall, on demand, make available to the officer authorised under sub-section (1) or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66—

(i) such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;

(ii) trial balance or its equivalent;

(iii) statements of annual financial accounts, duly audited, wherever required;

(iv) cost audit report, if any, under section 148 of the Companies Act, 2013;

18 of 2013.

(v) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961; and

43 of 1961.

(vi) any other relevant record,

for the scrutiny by the officer or audit party or the chartered accountant or cost accountant within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.

Officers to  
assist proper  
officers.

**72.** (1) All officers of Police, Railways, Customs, and those officers engaged in the collection of land revenue, including village officers, officers of State tax and officers of Union territory tax shall assist the proper officers in the implementation of this Act.

(2) The Government may, by notification, empower and require any other class of officers to assist the proper officers in the implementation of this Act when called upon to do so by the Commissioner.



## CHAPTER XV

## DEMANDS AND RECOVERY

73. (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts.

(2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

(5) The person chargeable with tax may, before service of notice under sub-section (1) or, as the case may be, the statement under sub-section (3), pay the amount of tax along with interest payable thereon under section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.

(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (3), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(8) Where any person chargeable with tax under sub-section (1) or sub-section (3) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.

(9) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.

(10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

(11) Notwithstanding anything contained in sub-section (6) or sub-section (8), penalty under sub-section (9) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.

Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts.

74. (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.

(2) The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

(5) The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.

(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(8) Where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.

(9) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.

(10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.

(11) Where any person served with an order issued under sub-section (9) pays the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.

*Explanation 1.*—For the purposes of section 73 and this section,—

(i) the expression “all proceedings in respect of the said notice” shall not include proceedings under section 132;

(ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122, 125, 129 and 130 are deemed to be concluded.

*Explanation 2.*—For the purposes of this Act, the expression “suppression” shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.

**75. (1)** Where the service of notice or issuance of order is stayed by an order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74, as the case may be.

General provisions relating to determination of tax.

(2) Where any Appellate Authority or Appellate Tribunal or court concludes that the notice issued under sub-section (1) of section 74 is not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73.

(3) Where any order is required to be issued in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court, such order shall be issued within two years from the date of communication of the said direction.

(4) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.

(5) The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time to the said person and adjourn the hearing for reasons to be recorded in writing:

Provided that no such adjournment shall be granted for more than three times to a person during the proceedings.

(6) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

(7) The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice.

(8) Where the Appellate Authority or Appellate Tribunal or court modifies the amount of tax determined by the proper officer, the amount of interest and penalty shall stand modified accordingly, taking into account the amount of tax so modified.

(9) The interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability.

(10) The adjudication proceedings shall be deemed to be concluded, if the order is not issued within three years as provided for in sub-section (10) of section 73 or within five years as provided for in sub-section (10) of section 74.

(11) An issue on which the Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the Appellate Authority or the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate

Authority and that of the Appellate Tribunal or the date of decision of the Appellate Tribunal and that of the High Court or the date of the decision of the High Court and that of the Supreme Court shall be excluded in computing the period referred to in sub-section (10) of section 73 or sub-section (10) of section 74 where proceedings are initiated by way of issue of a show cause notice under the said sections.

(12) Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79.

(13) Where any penalty is imposed under section 73 or section 74, no penalty for the same act or omission shall be imposed on the same person under any other provision of this Act.

Tax collected  
but not paid to  
Government.

**76.** (1) Notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Appellate Tribunal or court or in any other provisions of this Act or the rules made thereunder or any other law for the time being in force, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.

(2) Where any amount is required to be paid to the Government under sub-section (1), and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause as to why the said amount as specified in the notice, should not be paid by him to the Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.

(3) The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (2), determine the amount due from such person and thereupon such person shall pay the amount so determined.

(4) The person referred to in sub-section (1) shall in addition to paying the amount referred to in sub-section (1) or sub-section (3) also be liable to pay interest thereon at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.

(5) An opportunity of hearing shall be granted where a request is received in writing from the person to whom the notice was issued to show cause.

(6) The proper officer shall issue an order within one year from the date of issue of the notice.

(7) Where the issuance of order is stayed by an order of the court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of one year.

(8) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

(9) The amount paid to the Government under sub-section (1) or sub-section (3) shall be adjusted against the tax payable, if any, by the person in relation to the supplies referred to in sub-section (1).

(10) Where any surplus is left after the adjustment under sub-section (9), the amount of such surplus shall either be credited to the Fund or refunded to the person who has borne the incidence of such amount.

(11) The person who has borne the incidence of the amount, may apply for the refund of the same in accordance with the provisions of section 54.

77. (1) A registered person who has paid the Central tax and State tax or, as the case may be, the Central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.

Tax  
wrongfully  
collected and  
paid to  
Central  
Government  
or State  
Government.

(2) A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of central tax and State tax or, as the case may be, the Central tax and the Union territory tax payable.

78. Any amount payable by a taxable person in pursuance of an order passed under this Act shall be paid by such person within a period of three months from the date of service of such order failing which recovery proceedings shall be initiated:

Initiation of  
recovery  
proceedings.

Provided that where the proper officer considers it expedient in the interest of revenue, he may, for reasons to be recorded in writing, require the said taxable person to make such payment within such period less than a period of three months as may be specified by him.

79. (1) Where any amount payable by a person to the Government under any of the provisions of this Act or the rules made thereunder is not paid, the proper officer shall proceed to recover the amount by one or more of the following modes, namely:—

Recovery of  
tax.

(a) the proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer;

(b) the proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the proper officer or such other specified officer;

(c) (i) the proper officer may, by a notice in writing, require any other person from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the Government either forthwith upon the money becoming due or being held, or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;

(ii) every person to whom the notice is issued under sub-clause (i) shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;

(iii) in case the person to whom a notice under sub-clause (i) has been issued, fails to make the payment in pursuance thereof to the Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Act or the rules made thereunder shall follow;

(iv) the officer issuing a notice under sub-clause (i) may, at any time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice;

(v) any person making any payment in compliance with a notice issued under sub-clause (i) shall be deemed to have made the payment under the authority of the person in default and such payment being credited to the Government shall be deemed



to constitute a good and sufficient discharge of the liability of such person to the person in default to the extent of the amount specified in the receipt;

(vi) any person discharging any liability to the person in default after service on him of the notice issued under sub-clause (i) shall be personally liable to the Government to the extent of the liability discharged or to the extent of the liability of the person in default for tax, interest and penalty, whichever is less;

(vii) where a person on whom a notice is served under sub-clause (i) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the Government any such money or part thereof;

(d) the proper officer may, in accordance with the rules to be made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person;

(e) the proper officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business or to any officer authorised by the Government and the said Collector or the said officer, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue;

(f) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the proper officer may file an application to the appropriate Magistrate and such Magistrate shall proceed to recover from such person the amount specified thereunder as if it were a fine imposed by him.

2 of 1974.

(2) Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

(3) Where any amount of tax, interest or penalty is payable by a person to the Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of State tax or Union territory tax, during the course of recovery of said tax arrears, may recover the amount from the said person as if it were an arrear of State tax or Union territory tax and credit the amount so recovered to the account of the Government.

(4) Where the amount recovered under sub-section (3) is less than the amount due to the Central Government and State Government, the amount to be credited to the account of the respective Governments shall be in proportion to the amount due to each such Government.



**80.** On an application filed by a taxable person, the Commissioner may, for reasons to be recorded in writing, extend the time for payment or allow payment of any amount due under this Act, other than the amount due as per the liability self-assessed in any return, by such person in monthly instalments not exceeding twenty four, subject to payment of interest under section 50 and subject to such conditions and limitations as may be prescribed:

Payment of tax and other amount in instalments.

Provided that where there is default in payment of any one instalment on its due date, the whole outstanding balance payable on such date shall become due and payable forthwith and shall, without any further notice being served on the person, be liable for recovery.

**81.** Where a person, after any amount has become due from him, creates a charge on or parts with the property belonging to him or in his possession by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person:

Transfer of property to be void in certain cases.

Provided that, such charge or transfer shall not be void if it is made for adequate consideration, in good faith and without notice of the pendency of such proceedings under this Act or without notice of such tax or other sum payable by the said person, or with the previous permission of the proper officer.

31 of 2016.

**82.** Notwithstanding anything to the contrary contained in any law for the time being in force, save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, any amount payable by a taxable person or any other person on account of tax, interest or penalty which he is liable to pay to the Government shall be a first charge on the property of such taxable person or such person.

Tax to be first charge on property.

**83.** (1) Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed.

Provisional attachment to protect revenue in certain cases.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).

**84.** Where any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act, (hereafter in this section referred to as "Government dues"), is served upon any taxable person or any other person and any appeal or revision application is filed or any other proceedings is initiated in respect of such Government dues, then—

Continuation and validation of certain recovery proceedings.

(a) where such Government dues are enhanced in such appeal, revision or other proceedings, the Commissioner shall serve upon the taxable person or any other person another notice of demand in respect of the amount by which such Government dues are enhanced and any recovery proceedings in relation to such Government dues as are covered by the notice of demand served upon him before the disposal of such appeal, revision or other proceedings may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal;

(b) where such Government dues are reduced in such appeal, revision or in other proceedings—

(i) it shall not be necessary for the Commissioner to serve upon the taxable person a fresh notice of demand;

(ii) the Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceedings is pending;

(iii) any recovery proceedings initiated on the basis of the demand served upon him prior to the disposal of such appeal, revision or other proceedings may

be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

## CHAPTER XVI

### LIABILITY TO PAY IN CERTAIN CASES

Liability in case of transfer of business.

**85.** (1) Where a taxable person, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever, the taxable person and the person to whom the business is so transferred shall, jointly and severally, be liable wholly or to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person upto the time of such transfer, whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter.

(2) Where the transferee of a business referred to in sub-section (1) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the supply of goods or services or both effected by him with effect from the date of such transfer and shall, if he is a registered person under this Act, apply within the prescribed time for amendment of his certificate of registration.

Liability of agent and principal.

**86.** Where an agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall, jointly and severally, be liable to pay the tax payable on such goods under this Act.

Liability in case of amalgamation or merger of companies.

**87.** (1) When two or more companies are amalgamated or merged in pursuance of an order of court or of Tribunal or otherwise and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have supplied or received any goods or services or both to or from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and they shall be liable to pay tax accordingly.

(2) Notwithstanding anything contained in the said order, for the purposes of this Act, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order and the registration certificates of the said companies shall be cancelled with effect from the date of the said order.

Liability in case of company in liquidation.

**88.** (1) When any company is being wound up whether under the orders of a court or Tribunal or otherwise, every person appointed as receiver of any assets of a company (hereafter in this section referred to as the "liquidator"), shall, within thirty days after his appointment, give intimation of his appointment to the Commissioner.

(2) The Commissioner shall, after making such inquiry or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he receives intimation of the appointment of the liquidator, the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company.

(3) When any private company is wound up and any tax, interest or penalty determined under this Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of such company at any time during the period for which the tax was due shall, jointly and severally, be liable for the payment of such tax, interest or penalty, unless he proves to the satisfaction of the Commissioner that such non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Liability of directors of private company.

**89.** (1) Notwithstanding anything contained in the Companies Act, 2013, where any tax, interest or penalty due from a private company in respect of any supply of goods or services or both for any period cannot be recovered, then, every person who was a director of the private company during such period shall, jointly and severally, be liable for the

payment of such tax, interest or penalty unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(2) Where a private company is converted into a public company and the tax, interest or penalty in respect of any supply of goods or services or both for any period during which such company was a private company cannot be recovered before such conversion, then, nothing contained in sub-section (1) shall apply to any person who was a director of such private company in relation to any tax, interest or penalty in respect of such supply of goods or services or both of such private company:

Provided that nothing contained in this sub-section shall apply to any personal penalty imposed on such director.

**90.** Notwithstanding any contract to the contrary and any other law for the time being in force, where any firm is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall, jointly and severally, be liable for such payment:

Liability of partners of firm to pay tax.

Provided that where any partner retires from the firm, he or the firm, shall intimate the date of retirement of the said partner to the Commissioner by a notice in that behalf in writing and such partner shall be liable to pay tax, interest or penalty due up to the date of his retirement whether determined or not, on that date:

Provided further that if no such intimation is given within one month from the date of retirement, the liability of such partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

**91.** Where the business in respect of which any tax, interest or penalty is payable under this Act is carried on by any guardian, trustee or agent of a minor or other incapacitated person on behalf of and for the benefit of such minor or other incapacitated person, the tax, interest or penalty shall be levied upon and recoverable from such guardian, trustee or agent in like manner and to the same extent as it would be determined and recoverable from any such minor or other incapacitated person, as if he were a major or capacitated person and as if he were conducting the business himself, and all the provisions of this Act or the rules made thereunder shall apply accordingly.

Liability of guardians, trustees, etc.

**92.** Where the estate or any portion of the estate of a taxable person owning a business in respect of which any tax, interest or penalty is payable under this Act is under the control of the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator General, Official Trustee, receiver or manager in like manner and to the same extent as it would be determined and be recoverable from the taxable person as if he were conducting the business himself, and all the provisions of this Act or the rules made thereunder shall apply accordingly.

Liability of Court of Wards, etc.

31 of 2016.

**93.** (1) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a person, liable to pay tax, interest or penalty under this Act, dies, then—

Special provisions regarding liability to pay tax, interest or penalty in certain cases.

(a) if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act; and

(b) if the business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, interest or penalty due from such person under this Act,

whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

(2) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person, liable to pay tax, interest or penalty under this Act, is a Hindu Undivided Family or an association of persons and the property of the Hindu Undivided Family or the association of persons is partitioned amongst the various members or groups of members, then, each member or group of members shall, jointly and severally, be liable to pay the tax, interest or penalty due from the taxable person under this Act up to the time of the partition whether such tax, penalty or interest has been determined before partition but has remained unpaid or is determined after the partition. 31 of 2016.

(3) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person, liable to pay tax, interest or penalty under this Act, is a firm, and the firm is dissolved, then, every person who was a partner shall, jointly and severally, be liable to pay the tax, interest or penalty due from the firm under this Act up to the time of dissolution whether such tax, interest or penalty has been determined before the dissolution, but has remained unpaid or is determined after dissolution. 31 of 2016.

(4) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person liable to pay tax, interest or penalty under this Act,— 31 of 2016.

(a) is the guardian of a ward on whose behalf the business is carried on by the guardian; or

(b) is a trustee who carries on the business under a trust for a beneficiary,

then, if the guardianship or trust is terminated, the ward or the beneficiary shall be liable to pay the tax, interest or penalty due from the taxable person upto the time of the termination of the guardianship or trust, whether such tax, interest or penalty has been determined before the termination of guardianship or trust but has remained unpaid or is determined thereafter.

Liability in other cases.

**94. (1)** Where a taxable person is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business—

(a) the tax, interest or penalty payable under this Act by such firm, association or family up to the date of such discontinuance may be determined as if no such discontinuance had taken place; and

(b) every person who, at the time of such discontinuance, was a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, jointly and severally, be liable for the payment of tax and interest determined and penalty imposed and payable by such firm, association or family, whether such tax and interest has been determined or penalty imposed prior to or after such discontinuance and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a taxable person.

(2) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of association, as it existed before and as it exists after the reconstitution, shall, without prejudice to the provisions of section 90, jointly and severally, be liable to pay tax, interest or penalty due from such firm or association for any period before its reconstitution.

(3) The provisions of sub-section (1) shall, so far as may be, apply where the taxable person, being a firm or association of persons is dissolved or where the taxable person, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as reference to dissolution or to partition.

*Explanation.*—For the purposes of this Chapter,—

(i) a “Limited Liability Partnership” formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a firm;

(ii) “court” means the District Court, High Court or Supreme Court.

## CHAPTER XVII

### ADVANCE RULING

**95.** In this Chapter, unless the context otherwise requires,—

Definitions.

(a) “advance ruling” means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;

(b) “Appellate Authority” means the Appellate Authority for Advance Ruling referred to in section 99;

(c) “applicant” means any person registered or desirous of obtaining registration under this Act;

(d) “application” means an application made to the Authority under sub-section (1) of section 97;

(e) “Authority” means the Authority for Advance Ruling referred to in section 96.

**96.** Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

Authority for advance ruling.

**97.** (1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.

Application for advance ruling.

(2) The question on which the advance ruling is sought under this Act, shall be in respect of,—

(a) classification of any goods or services or both;

(b) applicability of a notification issued under the provisions of this Act;

(c) determination of time and value of supply of goods or services or both;

(d) admissibility of input tax credit of tax paid or deemed to have been paid;

(e) determination of the liability to pay tax on any goods or services or both;

(f) whether applicant is required to be registered;

(g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

**98.** (1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the concerned officer and, if necessary, call upon him to furnish the relevant records:

Procedure on receipt of application.

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said concerned officer.

(2) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application:



Provided that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:

Provided further that no application shall be rejected under this sub-section unless an opportunity of hearing has been given to the applicant:

Provided also that where the application is rejected, the reasons for such rejection shall be specified in the order.

(3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the concerned officer.

(4) Where an application is admitted under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority and after providing an opportunity of being heard to the applicant or his authorised representative as well as to the concerned officer or his authorised representative, pronounce its advance ruling on the question specified in the application.

(5) Where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.

(6) The Authority shall pronounce its advance ruling in writing within ninety days from the date of receipt of application.

(7) A copy of the advance ruling pronounced by the Authority duly signed by the members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer and the jurisdictional officer after such pronouncement.

Appellate  
Authority for  
Advance  
Ruling.

**99.** Subject to the provisions of this Chapter, for the purposes of this Act, the Appellate Authority for Advance Ruling constituted under the provisions of a State Goods and Services Tax Act or a Union Territory Goods and Services Tax Act shall be deemed to be the Appellate Authority in respect of that State or Union territory.

Appeal to  
Appellate  
Authority.

**100.** (1) The concerned officer, the jurisdictional officer or an applicant aggrieved by any advance ruling pronounced under sub-section (4) of section 98, may appeal to the Appellate Authority.

(2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the concerned officer, the jurisdictional officer and the applicant:

Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, allow it to be presented within a further period not exceeding thirty days.

(3) Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed.

Orders of  
Appellate  
Authority.

**101.** (1) The Appellate Authority may, after giving the parties to the appeal or reference an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against or referred to.

(2) The order referred to in sub-section (1) shall be passed within a period of ninety days from the date of filing of the appeal under section 100 or a reference under sub-section (5) of section 98.

(3) Where the members of the Appellate Authority differ on any point or points referred to in appeal or reference, it shall be deemed that no advance ruling can be issued in respect of the question under the appeal or reference.

(4) A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in such manner as may be prescribed shall be sent to the



applicant, the concerned officer, the jurisdictional officer and to the Authority after such pronouncement.

**102.** The Authority or the Appellate Authority may amend any order passed by it under section 98 or section 101, so as to rectify any error apparent on the face of the record, if such error is noticed by the Authority or the Appellate Authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer, the applicant or the appellant within a period of six months from the date of the order:

Rectification of advance ruling.

Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the applicant or the appellant has been given an opportunity of being heard.

**103.** (1) The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only—

Applicability of advance ruling.

(a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;

(b) on the concerned officer or the jurisdictional officer in respect of the applicant.

(2) The advance ruling referred to in sub-section (1) shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

**104.** (1) Where the Authority or the Appellate Authority finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 101 has been obtained by the applicant or the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void *ab-initio* and thereupon all the provisions of this Act or the rules made thereunder shall apply to the applicant or the appellant as if such advance ruling had never been made:

Advance ruling to be void in certain circumstances.

Provided that no order shall be passed under this sub-section unless an opportunity of being heard has been given to the applicant or the appellant.

*Explanation.*—The period beginning with the date of such advance ruling and ending with the date of order under this sub-section shall be excluded while computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74.

(2) A copy of the order made under sub-section (1) shall be sent to the applicant, the concerned officer and the jurisdictional officer.

**105.** (1) The Authority or the Appellate Authority shall, for the purpose of exercising its powers regarding—

Powers of Authority and Appellate Authority.

(a) discovery and inspection;

(b) enforcing the attendance of any person and examining him on oath;

(c) issuing commissions and compelling production of books of account and other records,

5 of 1908. have all the powers of a civil court under the Code of Civil Procedure, 1908.

(2) The Authority or the Appellate Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding before the Authority or the Appellate Authority shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code.

2 of 1974.

45 of 1860.

**106.** The Authority or the Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure.

Procedure of Authority and Appellate Authority.

## CHAPTER XVIII

### APPEALS AND REVISION

Appeals to  
Appellate  
Authority.

**107.** (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.

(2) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.

(3) Where, in pursuance of an order under sub-section (2), the authorised officer makes an application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application.

(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.

(5) Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.

(6) No appeal shall be filed under sub-section (1), unless the appellant has paid—

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed.

(7) Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.

(8) The Appellate Authority shall give an opportunity to the appellant of being heard.

(9) The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(10) The Appellate Authority may, at the time of hearing of an appeal, allow an appellant to add any ground of appeal not specified in the grounds of appeal, if it is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(11) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:

Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74.

(12) The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision.

(13) The Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:

Provided that where the issuance of order is stayed by an order of a court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

(14) On disposal of the appeal, the Appellate Authority shall communicate the order passed by it to the appellant, respondent and to the adjudicating authority.

(15) A copy of the order passed by the Appellate Authority shall also be sent to the jurisdictional Commissioner or the authority designated by him in this behalf and the jurisdictional Commissioner of State tax or Commissioner of Union Territory Tax or an authority designated by him in this behalf.

(16) Every order passed under this section shall, subject to the provisions of section 108 or section 113 or section 117 or section 118 be final and binding on the parties.

**108.** (1) Subject to the provisions of section 121 and any rules made thereunder, the Revisional Authority may, on his own motion, or upon information received by him or on request from the Commissioner of State tax, or the Commissioner of Union territory tax, call for and examine the record of any proceedings, and if he considers that any decision or order passed under this Act or under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by any officer subordinate to him is erroneous in so far as it is prejudicial to the interest of revenue and is illegal or improper or has not taken into account certain material facts, whether available at the time of issuance of the said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, stay the operation of such decision or order for such period as he deems fit and after giving the person concerned an opportunity of being heard and after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order.

Powers of  
Revisional  
Authority.

(2) The Revisional Authority shall not exercise any power under sub-section (1), if—

(a) the order has been subject to an appeal under section 107 or section 112 or section 117 or section 118; or

(b) the period specified under sub-section (2) of section 107 has not yet expired or more than three years have expired after the passing of the decision or order sought to be revised; or

(c) the order has already been taken for revision under this section at an earlier stage; or

(d) the order has been passed in exercise of the powers under sub-section (1):

Provided that the Revisional Authority may pass an order under sub-section (1) on any point which has not been raised and decided in an appeal referred to in clause (a) of sub-section (2), before the expiry of a period of one year from the date of the order in such appeal or before the expiry of a period of three years referred to in clause (b) of that sub-section, whichever is later.

(3) Every order passed in revision under sub-section (1) shall, subject to the provisions of section 113 or section 117 or section 118, be final and binding on the parties.

(4) If the said decision or order involves an issue on which the Appellate Tribunal or the High Court has given its decision in some other proceedings and an appeal to the High Court or the Supreme Court against such decision of the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Tribunal and the date of the decision of the High Court or the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period of limitation referred to in clause (b) of sub-section (2) where proceedings for revision have been initiated by way of issue of a notice under this section.

(5) Where the issuance of an order under sub-section (1) is stayed by the order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of limitation referred to in clause (b) of sub-section (2).

(6) For the purposes of this section, the term,—

(i) “record” shall include all records relating to any proceedings under this Act available at the time of examination by the Revisional Authority;

(ii) “decision” shall include intimation given by any officer lower in rank than the Revisional Authority.

Constitution  
of Appellate  
Tribunal and  
Benches  
thereof.

**109.** (1) The Government shall, on the recommendations of the Council, by notification, constitute with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority.

(2) The powers of the Appellate Tribunal shall be exercisable by the National Bench and Benches thereof (hereinafter in this Chapter referred to as “Regional Benches”), State Bench and Benches thereof (hereafter in this Chapter referred to as “Area Benches”).

(3) The National Bench of the Appellate Tribunal shall be situated at New Delhi which shall be presided over by the President and shall consist of one Technical Member (Centre) and one Technical Member (State).

(4) The Government shall, on the recommendations of the Council, by notification, constitute such number of Regional Benches as may be required and such Regional Benches shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State).

(5) The National Bench or Regional Benches of the Appellate Tribunal shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases where one of the issues involved relates to the place of supply.

(6) The Government shall, by notification, specify for each State or Union territory, a Bench of the Appellate Tribunal (hereafter in this Chapter, referred to as “State Bench”) for exercising the powers of the Appellate Tribunal within the concerned State or Union territory:

Provided that the Government shall, on receipt of a request from any State Government, constitute such number of Area Benches in that State, as may be recommended by the Council:

Provided further that the Government may, on receipt of a request from any State, or on its own motion for a Union territory, notify the Appellate Tribunal in a State to act as the Appellate Tribunal for any other State or Union territory, as may be recommended by the Council, subject to such terms and conditions as may be prescribed.

(7) The State Bench or Area Benches shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases involving matters other than those referred to in sub-section (5).

(8) The President and the State President shall, by general or special order, distribute the business or transfer cases among Regional Benches or, as the case may be, Area Benches in a State.

(9) Each State Bench and Area Benches of the Appellate Tribunal shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State) and the State Government may designate the senior most Judicial Member in a State as the State President.

(10) In the absence of a Member in any Bench due to vacancy or otherwise, any appeal may, with the approval of the President or, as the case may be, the State President, be heard by a Bench of two Members:

Provided that any appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed five lakh rupees and which does not involve any question of law may, with the approval of the President and subject to such conditions as may be prescribed on the recommendations of the Council, be heard by a bench consisting of a single member.

(11) If the Members of the National Bench, Regional Benches, State Bench or Area Benches differ in opinion on any point or points, it shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President or as the case may be, State President for hearing on such point or points to one or more of the other Members of the National Bench, Regional Benches, State Bench or Area Benches and such point or points shall be decided according to the opinion of the majority of Members who have heard the case, including those who first heard it.

(12) The Government, in consultation with the President may, for the administrative convenience, transfer—

(a) any Judicial Member or a Member Technical (State) from one Bench to another Bench, whether National or Regional; or

(b) any Member Technical (Centre) from one Bench to another Bench, whether National, Regional, State or Area.

(13) The State Government, in consultation with the State President may, for the administrative convenience, transfer a Judicial Member or a Member Technical (State) from one Bench to another Bench within the State.

(14) No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.

**110.** (1) A person shall not be qualified for appointment as—

(a) the President, unless he has been a Judge of the Supreme Court or is or has been the Chief Justice of a High Court, or is or has been a Judge of a High Court for a period not less than five years;

(b) a Judicial Member, unless he—

(i) has been a Judge of the High Court; or

(ii) is or has been a District Judge qualified to be appointed as a Judge of a High Court; or

President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc.

(iii) is or has been a Member of Indian Legal Service and has held a post not less than Additional Secretary for three years;

(c) a Technical Member (Centre) unless he is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A, and has completed at least fifteen years of service in Group A;

(d) a Technical Member (State) unless he is or has been an officer of the State Government not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank as may be notified by the concerned State Government on the recommendations of the Council with at least three years of experience in the administration of an existing law or the State Goods and Services Tax Act or in the field of finance and taxation.

(2) The President and the Judicial Members of the National Bench and the Regional Benches shall be appointed by the Government after consultation with the Chief Justice of India or his nominee:

Provided that in the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or otherwise, the senior most Member of the National Bench shall act as the President until the date on which a new President, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office:

Provided further that where the President is unable to discharge his functions owing to absence, illness or any other cause, the senior most Member of the National Bench shall discharge the functions of the President until the date on which the President resumes his duties.

(3) The Technical Member (Centre) and Technical Member (State) of the National Bench and Regional Benches shall be appointed by the Government on the recommendations of a Selection Committee consisting of such persons and in such manner as may be prescribed.

(4) The Judicial Member of the State Bench or Area Benches shall be appointed by the State Government after consultation with the Chief Justice of the High Court of the State or his nominee.

(5) The Technical Member (Centre) of the State Bench or Area Benches shall be appointed by the Central Government and Technical Member (State) of the State Bench or Area Benches shall be appointed by the State Government in such manner as may be prescribed.

(6) No appointment of the Members of the Appellate Tribunal shall be invalid merely by the reason of any vacancy or defect in the constitution of the Selection Committee.

(7) Before appointing any person as the President or Members of the Appellate Tribunal, the Central Government or, as the case may be, the State Government, shall satisfy itself that such person does not have any financial or other interests which are likely to prejudicially affect his functions as such President or Member.

(8) The salary, allowances and other terms and conditions of service of the President, State President and the Members of the Appellate Tribunal shall be such as may be prescribed:

Provided that neither salary and allowances nor other terms and conditions of service of the President, State President or Members of the Appellate Tribunal shall be varied to their disadvantage after their appointment.

(9) The President of the Appellate Tribunal shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier and shall be eligible for reappointment.



(10) The Judicial Member of the Appellate Tribunal and the State President shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.

(11) The Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.

(12) The President, State President or any Member may, by notice in writing under his hand addressed to the Central Government or, as the case may be, the State Government resign from his office:

Provided that the President, State President or Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Central Government, or, as the case may be, the State Government or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(13) The Central Government may, after consultation with the Chief Justice of India, in case of the President, Judicial Members and Technical Members of the National Bench, Regional Benches or Technical Members (Centre) of the State Bench or Area Benches, and the State Government may, after consultation with the Chief Justice of High Court, in case of the State President, Judicial Members, Technical Members (State) of the State Bench or Area Benches, may remove from the office such President or Member, who—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of such Government involves moral turpitude; or

(c) has become physically or mentally incapable of acting as such President, State President or Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President, State President or Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that the President, State President or the Member shall not be removed on any of the grounds specified in clauses (d) and (e), unless he has been informed of the charges against him and has been given an opportunity of being heard.

(14) Without prejudice to the provisions of sub-section (13),—

(a) the President or a Judicial and Technical Member of the National Bench or Regional Benches, Technical Member (Centre) of the State Bench or Area Benches shall not be removed from their office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Central Government and of which the President or the said Member had been given an opportunity of being heard;

(b) the Judicial Member or Technical Member (State) of the State Bench or Area Benches shall not be removed from their office except by an order made by the State Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the concerned High Court nominated by the Chief Justice of the concerned High Court on a reference made to him by the State Government and of which the said Member had been given an opportunity of being heard.

(15) The Central Government, with the concurrence of the Chief Justice of India, may suspend from office, the President or a Judicial or Technical Members of the National Bench

or the Regional Benches or the Technical Member (Centre) of the State Bench or Area Benches in respect of whom a reference has been made to the Judge of the Supreme Court under sub-section (14).

(16) The State Government, with the concurrence of the Chief Justice of the High Court, may suspend from office, a Judicial Member or Technical Member (State) of the State Bench or Area Benches in respect of whom a reference has been made to the Judge of the High Court under sub-section (14).

(17) Subject to the provisions of article 220 of the Constitution, the President, State President or other Members, on ceasing to hold their office, shall not be eligible to appear, act or plead before the National Bench and the Regional Benches or the State Bench and the Area Benches thereof where he was the President or, as the case may be, a Member.

Procedure  
before  
Appellate  
Tribunal.

**111.** (1) The Appellate Tribunal shall not, while disposing of any proceedings before it or an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and the rules made thereunder, the Appellate Tribunal shall have power to regulate its own procedure.

5 of 1908.

(2) The Appellate Tribunal shall, for the purposes of discharging its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document from any office;

1 of 1872.

(e) issuing commissions for the examination of witnesses or documents;

(f) dismissing a representation for default or deciding it *ex parte*;

(g) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*; and

(h) any other matter which may be prescribed.

(3) Any order made by the Appellate Tribunal may be enforced by it in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Appellate Tribunal to send for execution of its orders to the court within the local limits of whose jurisdiction,—

(a) in the case of an order against a company, the registered office of the company is situated; or

(b) in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain.

(4) All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

Appeals to  
Appellate  
Tribunal.

**112.** (1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory

Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.

(2) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed fifty thousand rupees.

(3) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or Commissioner of Union territory tax, call for and examine the record of any order passed by the Appellate Authority or the Revisional Authority under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act for the purpose of satisfying himself as to the legality or propriety of the said order and may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal within six months from the date on which the said order has been passed for determination of such points arising out of the said order as may be specified by the Commissioner in his order.

(4) Where in pursuance of an order under sub-section (3) the authorised officer makes an application to the Appellate Tribunal, such application shall be dealt with by the Appellate Tribunal as if it were an appeal made against the order under sub-section (11) of section 107 or under sub-section (1) of section 108 and the provisions of this Act shall apply to such application, as they apply in relation to appeals filed under sub-section (1).

(5) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal, as if it were an appeal presented within the time specified in sub-section (1).

(6) The Appellate Tribunal may admit an appeal within three months after the expiry of the period referred to in sub-section (1), or permit the filing of a memorandum of cross-objections within forty-five days after the expiry of the period referred to in sub-section (5) if it is satisfied that there was sufficient cause for not presenting it within that period.

(7) An appeal to the Appellate Tribunal shall be in such form, verified in such manner and shall be accompanied by such fee, as may be prescribed.

(8) No appeal shall be filed under sub-section (1), unless the appellant has paid—

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and

(b) a sum equal to twenty per cent. of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of section 107, arising from the said order, in relation to which the appeal has been filed.

(9) Where the appellant has paid the amount as per sub-section (8), the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.

(10) Every application made before the Appellate Tribunal,—

(a) in an appeal for rectification of error or for any other purpose; or

(b) for restoration of an appeal or an application,

shall be accompanied by such fees as may be prescribed.

Orders of  
Appellate  
Tribunal.

**113.** (1) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the Appellate Authority, or the Revisional Authority or to the original adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision after taking additional evidence, if necessary.

(2) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(3) The Appellate Tribunal may amend any order passed by it under sub-section (1) so as to rectify any error apparent on the face of the record, if such error is noticed by it on its own accord, or is brought to its notice by the Commissioner or the Commissioner of State tax or the Commissioner of the Union territory tax or the other party to the appeal within a period of three months from the date of the order:

Provided that no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under this sub-section, unless the party has been given an opportunity of being heard.

(4) The Appellate Tribunal shall, as far as possible, hear and decide every appeal within a period of one year from the date on which it is filed.

(5) The Appellate Tribunal shall send a copy of every order passed under this section to the Appellate Authority or the Revisional Authority, or the original adjudicating authority, as the case may be, the appellant and the jurisdictional Commissioner or the Commissioner of State tax or the Union territory tax.

(6) Save as provided in section 117 or section 118, orders passed by the Appellate Tribunal on an appeal shall be final and binding on the parties.

Financial and  
administrative  
powers of  
President.

**114.** The President shall exercise such financial and administrative powers over the National Bench and Regional Benches of the Appellate Tribunal as may be prescribed:

Provided that the President shall have the authority to delegate such of his financial and administrative powers as he may think fit to any other Member or any officer of the National Bench and Regional Benches, subject to the condition that such Member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the President.

Interest on  
refund of  
amount paid  
for admission  
of appeal.

**115.** Where an amount paid by the appellant under sub-section (6) of section 107 or sub-section (8) of section 112 is required to be refunded consequent to any order of the Appellate Authority or of the Appellate Tribunal, interest at the rate specified under section 56 shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.

Appearance  
by authorised  
representative.

**116.** (1) Any person who is entitled or required to appear before an officer appointed under this Act, or the Appellate Authority or the Appellate Tribunal in connection with any proceedings under this Act, may, otherwise than when required under this Act to appear personally for examination on oath or affirmation, subject to the other provisions of this section, appear by an authorised representative.

(2) For the purposes of this Act, the expression “authorised representative” shall mean a person authorised by the person referred to in sub-section (1) to appear on his behalf, being—

(a) his relative or regular employee; or

(b) an advocate who is entitled to practice in any court in India, and who has not been debarred from practicing before any court in India; or

(c) any chartered accountant, a cost accountant or a company secretary, who holds a certificate of practice and who has not been debarred from practice; or

(d) a retired officer of the Commercial Tax Department of any State Government or Union territory or of the Board who, during his service under the Government, had worked in a post not below the rank than that of a Group-B Gazetted officer for a period of not less than two years:

Provided that such officer shall not be entitled to appear before any proceedings under this Act for a period of one year from the date of his retirement or resignation; or

(e) any person who has been authorised to act as a goods and services tax practitioner on behalf of the concerned registered person.

(3) No person,—

(a) who has been dismissed or removed from Government service; or

(b) who is convicted of an offence connected with any proceedings under this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, or under the existing law or under any of the Acts passed by a State Legislature dealing with the imposition of taxes on sale of goods or supply of goods or services or both; or

(c) who is found guilty of misconduct by the prescribed authority;

(d) who has been adjudged as an insolvent,

shall be qualified to represent any person under sub-section (1)—

(i) for all times in case of persons referred to in clauses (a), (b) and (c); and

(ii) for the period during which the insolvency continues in the case of a person referred to in clause (d).

(4) Any person who has been disqualified under the provisions of the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be disqualified under this Act.

**117.** (1) Any person aggrieved by any order passed by the State Bench or Area Benches of the Appellate Tribunal may file an appeal to the High Court and the High Court may admit such appeal, if it is satisfied that the case involves a substantial question of law.

Appeal to  
High Court.

(2) An appeal under sub-section (1) shall be filed within a period of one hundred and eighty days from the date on which the order appealed against is received by the aggrieved person and it shall be in such form, verified in such manner as may be prescribed:

Provided that the High Court may entertain an appeal after the expiry of the said period if it is satisfied that there was sufficient cause for not filing it within such period.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question and the appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(4) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(5) The High Court may determine any issue which—

(a) has not been determined by the State Bench or Area Benches; or

(b) has been wrongly determined by the State Bench or Area Benches, by reason of a decision on such question of law as herein referred to in sub-section (3).

(6) Where an appeal has been filed before the High Court, it shall be heard by a Bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(7) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only, by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

(8) Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such judgment by either side on the basis of a certified copy of the judgment.

(9) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section. 5 of 1908.

Appeal to  
Supreme  
Court.

**118.** (1) An appeal shall lie to the Supreme Court—

(a) from any order passed by the National Bench or Regional Benches of the Appellate Tribunal; or

(b) from any judgment or order passed by the High Court in an appeal made under section 117 in any case which, on its own motion or on an application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the High Court certifies to be a fit one for appeal to the Supreme Court.

(2) The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under this section as they apply in the case of appeals from decrees of a High Court. 5 of 1908.

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 117 in the case of a judgment of the High Court.

Sums due to  
be paid  
notwithstanding  
appeal, etc.

**119.** Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, sums due to the Government as a result of an order passed by the National or Regional Benches of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the State Bench or Area Benches of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the High Court under section 117, as the case may be, shall be payable in accordance with the order so passed.

Appeal not to  
be filed in  
certain cases.

**120.** (1) The Board may, on the recommendations of the Council, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal or application by the officer of the central tax under the provisions of this Chapter.

(2) Where, in pursuance of the orders or instructions or directions issued under sub-section (1), the officer of the central tax has not filed an appeal or application against any decision or order passed under the provisions of this Act, it shall not preclude such officer of the central tax from filing appeal or application in any other case involving the same or similar issues or questions of law.

(3) Notwithstanding the fact that no appeal or application has been filed by the officer of the central tax pursuant to the orders or instructions or directions issued under sub-section (1), no person, being a party in appeal or application shall contend that the



officer of the central tax has acquiesced in the decision on the disputed issue by not filing an appeal or application.

(4) The Appellate Tribunal or court hearing such appeal or application shall have regard to the circumstances under which appeal or application was not filed by the officer of the central tax in pursuance of the orders or instructions or directions issued under sub-section (1).

**121.** Notwithstanding anything to the contrary in any provisions of this Act, no appeal shall lie against any decision taken or order passed by an officer of central tax if such decision taken or order passed relates to any one or more of the following matters, namely:—

Non-appealable decisions and orders.

(a) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer; or

(b) an order pertaining to the seizure or retention of books of account, register and other documents; or

(c) an order sanctioning prosecution under this Act; or

(d) an order passed under section 80.

## CHAPTER XIX

### OFFENCES AND PENALTIES

**122.** (1) Where a taxable person who—

Penalty for certain offences.

(i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;

(ii) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder;

(iii) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(iv) collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(v) fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) thereof, the amount deducted as tax;

(vi) fails to collect tax in accordance with the provisions of sub-section (1) of section 52, or collects an amount which is less than the amount required to be collected under the said sub-section or where he fails to pay to the Government the amount collected as tax under sub-section (3) of section 52;

(vii) takes or utilises input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder;

(viii) fraudulently obtains refund of tax under this Act;

(ix) takes or distributes input tax credit in contravention of section 20, or the rules made thereunder;

(x) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;

- (xi) is liable to be registered under this Act but fails to obtain registration;
- (xii) furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;
- (xiii) obstructs or prevents any officer in discharge of his duties under this Act;
- (xiv) transports any taxable goods without the cover of documents as may be specified in this behalf;
- (xv) suppresses his turnover leading to evasion of tax under this Act;
- (xvi) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;
- (xvii) fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;
- (xviii) supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act;
- (xix) issues any invoice or document by using the registration number of another registered person;
- (xx) tampers with, or destroys any material evidence or document;
- (xxi) disposes off or tampers with any goods that have been detained, seized, or attached under this Act,

he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.

(2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilised,—

(a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent. of the tax due from such person, whichever is higher;

(b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.

(3) Any person who—

(a) aids or abets any of the offences specified in clauses (i) to (xxi) of sub-section (1);

(b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

(c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

(d) fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry;

(e) fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account, shall be liable to a penalty which may extend to twenty-five thousand rupees.

**123.** If a person who is required to furnish an information return under section 150 fails to do so within the period specified in the notice issued under sub-section (3) thereof, the proper officer may direct that such person shall be liable to pay a penalty of one hundred rupees for each day of the period during which the failure to furnish such return continues: Penalty for failure to furnish information return.

Provided that the penalty imposed under this section shall not exceed five thousand rupees.

**124.** If any person required to furnish any information or return under section 151,— Fine for failure to furnish statistics.

(a) without reasonable cause fails to furnish such information or return as may be required under that section, or

(b) wilfully furnishes or causes to furnish any information or return which he knows to be false,

he shall be punishable with a fine which may extend to ten thousand rupees and in case of a continuing offence to a further fine which may extend to one hundred rupees for each day after the first day during which the offence continues subject to a maximum limit of twenty-five thousand rupees.

**125.** Any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to twenty-five thousand rupees. General penalty.

**126.** (1) No officer under this Act shall impose any penalty for minor breaches of tax regulations or procedural requirements and in particular, any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent or gross negligence. General disciplines related to penalty.

*Explanation.*—For the purpose of this sub-section,—

(a) a breach shall be considered a 'minor breach' if the amount of tax involved is less than five thousand rupees;

(b) an omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on the face of record.

(2) The penalty imposed under this Act shall depend on the facts and circumstances of each case and shall be commensurate with the degree and severity of the breach.

(3) No penalty shall be imposed on any person without giving him an opportunity of being heard.

(4) The officer under this Act shall while imposing penalty in an order for a breach of any law, regulation or procedural requirement, specify the nature of the breach and the applicable law, regulation or procedure under which the amount of penalty for the breach has been specified.

(5) When a person voluntarily discloses to an officer under this Act the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the officer under this Act, the proper officer may consider this fact as a mitigating factor when quantifying a penalty for that person.

(6) The provisions of this section shall not apply in such cases where the penalty specified under this Act is either a fixed sum or expressed as a fixed percentage.

**127.** Where the proper officer is of the view that a person is liable to a penalty and the same is not covered under any proceedings under section 62 or section 63 or section 64 or Power to impose penalty in certain cases.

section 73 or section 74 or section 129 or section 130, he may issue an order levying such penalty after giving a reasonable opportunity of being heard to such person.

Power to  
waive penalty  
or fee or both.

**128.** The Government may, by notification, waive in part or full, any penalty referred to in section 122 or section 123 or section 125 or any late fee referred to in section 47 for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council.

Detention,  
seizure and  
release of  
goods and  
conveyances  
in transit.

**129.** (1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,—

(a) on payment of the applicable tax and penalty equal to one hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;

(b) on payment of the applicable tax and penalty equal to the fifty per cent. of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty;

(c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed:

Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.

(2) The provisions of sub-section (6) of section 67 shall, *mutatis mutandis*, apply for detention and seizure of goods and conveyances.

(3) The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c).

(4) No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.

(5) On payment of amount referred in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded.

(6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within seven days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:

Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of seven days may be reduced by the proper officer.

Confiscation  
of goods or  
conveyances  
and levy of  
penalty.

**130.** (1) Notwithstanding anything contained in this Act, if any person—

(i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(ii) does not account for any goods on which he is liable to pay tax under this Act; or

(iii) supplies any goods liable to tax under this Act without having applied for registration; or

(iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance,

then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.

(2) Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit:

Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:

Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (1) of section 129:

Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.

(3) Where any fine in lieu of confiscation of goods or conveyance is imposed under sub-section (2), the owner of such goods or conveyance or the person referred to in sub-section (1), shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.

(4) No order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person an opportunity of being heard.

(5) Where any goods or conveyance are confiscated under this Act, the title of such goods or conveyance shall thereupon vest in the Government.

(6) The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.

(7) The proper officer may, after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding three months to pay fine in lieu of confiscation, dispose of such goods or conveyance and deposit the sale proceeds thereof with the Government.

2 of 1974.

**131.** Without prejudice to the provisions contained in the Code of Criminal Procedure, 1973, no confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law for the time being in force.

Confiscation or penalty not to interfere with other punishments.

**132. (1)** Whoever commits any of the following offences, namely:—

Punishment for certain offences.

(a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;

(b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;

(c) avails input tax credit using such invoice or bill referred to in clause (b);

(d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);

(f) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;

(g) obstructs or prevents any officer in the discharge of his duties under this Act;

(h) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

(i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

(j) tampers with or destroys any material evidence or documents;

(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or

(l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section,

shall be punishable—

(i) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;

(ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;

(iii) in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;

(iv) in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(2) Where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.

(3) The imprisonment referred to in clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2) shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.



2 of 1974.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act, except the offences referred to in sub-section (5) shall be non-cognizable and bailable.

(5) The offences specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) and punishable under clause (i) of that sub-section shall be cognizable and non-bailable.

(6) A person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

*Explanation.*— For the purposes of this section, the term “tax” shall include the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions of this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act and cess levied under the Goods and Services Tax (Compensation to States) Act.

**133.** (1) Where any person engaged in connection with the collection of statistics under section 151 or compilation or computerisation thereof or if any officer of central tax having access to information specified under sub-section (1) of section 150, or if any person engaged in connection with the provision of service on the common portal or the agent of common portal, wilfully discloses any information or the contents of any return furnished under this Act or rules made thereunder otherwise than in execution of his duties under the said sections or for the purposes of prosecution for an offence under this Act or under any other Act for the time being in force, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to twenty-five thousand rupees, or with both.

Liability of officers and certain other persons.

(2) Any person—

(a) who is a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Government;

(b) who is not a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

**134.** No court shall take cognizance of any offence punishable under this Act or the rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Magistrate of the First Class, shall try any such offence.

Cognizance of offences.

**135.** In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Presumption of culpable mental state.

*Explanation.*—For the purposes of this section,—

(i) the expression “culpable mental state” includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact;

(ii) a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

**136.** A statement made and signed by a person on appearance in response to any summons issued under section 70 during the course of any inquiry or proceedings under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,—

Relevancy of statements under certain circumstances.

(a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or

(b) when the person who made the statement is examined as a witness in the case before the court and the court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.

Offences by companies.

**137.** (1) Where an offence committed by a person under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where an offence under this Act has been committed by a taxable person being a partnership firm or a Limited Liability Partnership or a Hindu Undivided Family or a trust, the partner or *karta* or managing trustee shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly and the provisions of sub-section (2) shall, *mutatis mutandis*, apply to such persons.

(4) Nothing contained in this section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

*Explanation.*—For the purposes of this section,—

(i) “company” means a body corporate and includes a firm or other association of individuals; and

(ii) “director”, in relation to a firm, means a partner in the firm.

Compounding of offences.

**138.** (1) Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by the person accused of the offence, to the Central Government or the State Government, as the case be, of such compounding amount in such manner as may be prescribed:

Provided that nothing contained in this section shall apply to—

(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f) of sub-section (1) of section 132 and the offences specified in clause (1) which are relatable to offences specified in clauses (a) to (f) of the said sub-section;

(b) a person who has been allowed to compound once in respect of any offence, other than those in clause (a), under this Act or under the provisions of any State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the Integrated Goods and Services Tax Act in respect of supplies of value exceeding one crore rupees;

(c) a person who has been accused of committing an offence under this Act which is also an offence under any other law for the time being in force;

(d) a person who has been convicted for an offence under this Act by a court;

(e) a person who has been accused of committing an offence specified in clause (g) or clause (j) or clause (k) of sub-section (1) of section 132; and

(f) any other class of persons or offences as may be prescribed:

Provided further that any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law:

Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.

(2) The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than ten thousand rupees or fifty per cent. of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher.

(3) On payment of such compounding amount as may be determined by the Commissioner, no further proceedings shall be initiated under this Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

## CHAPTER XX

### TRANSITIONAL PROVISIONS

**139.** (1) On and from the appointed day, every person registered under any of the existing laws and having a valid Permanent Account Number shall be issued a certificate of registration on provisional basis, subject to such conditions and in such form and manner as may be prescribed, which unless replaced by a final certificate of registration under sub-section (2), shall be liable to be cancelled if the conditions so prescribed are not complied with.

Migration of existing taxpayers.

(2) The final certificate of registration shall be granted in such form and manner and subject to such conditions as may be prescribed.

(3) The certificate of registration issued to a person under sub-section (1) shall be deemed to have not been issued if the said registration is cancelled in pursuance of an application filed by such person that he was not liable to registration under section 22 or section 24.

**140.** (1) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed:

Transitional arrangements for input tax credit.

Provided that the registered person shall not be allowed to take credit in the following circumstances, namely:—

(i) where the said amount of credit is not admissible as input tax credit under this Act; or

(ii) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or

(iii) where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government.

(2) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the registered person shall not be allowed to take credit unless the said credit was admissible as CENVAT credit under the existing law and is also admissible as input tax credit under this Act.

*Explanation.*—For the purposes of this sub-section, the expression “unavailed CENVAT credit” means the amount that remains after subtracting the amount of CENVAT credit already availed in respect of capital goods by the taxable person under the existing law from the aggregate amount of CENVAT credit to which the said person was entitled in respect of the said capital goods under the existing law.

(3) A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of notification No. 26/2012—Service Tax, dated the 20th June, 2012 or a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—

- (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said registered person is eligible for input tax credit on such inputs under this Act;
- (iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;
- (iv) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and
- (v) the supplier of services is not eligible for any abatement under this Act:

Provided that where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, then, such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.

(4) A registered person, who was engaged in the manufacture of taxable as well as exempted goods under the Central Excise Act, 1944 or provision of taxable as well as exempted services under Chapter V of the Finance Act, 1994, but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger,—

1 of 1944.  
32 of 1994.

- (a) the amount of CENVAT credit carried forward in a return furnished under the existing law by him in accordance with the provisions of sub-section (1); and
- (b) the amount of CENVAT credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to such exempted goods or services, in accordance with the provisions of sub-section (3).

(5) A registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the books of account of such person within a period of thirty days from the appointed day:

Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding thirty days:

Provided further that said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this sub-section.

(6) A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—

(i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;

(ii) the said registered person is not paying tax under section 10;

(iii) the said registered person is eligible for input tax credit on such inputs under this Act;

(iv) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of inputs; and

(v) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

(7) Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act even if the invoices relating to such services are received on or after the appointed day.

(8) Where a registered person having centralised registration under the existing law has obtained a registration under this Act, such person shall be allowed to take, in his electronic credit ledger, credit of the amount of CENVAT credit carried forward in a return, furnished under the existing law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that if the registered person furnishes his return for the period ending with the day immediately preceding the appointed day within three months of the appointed day, such credit shall be allowed subject to the condition that the said return is either an original return or a revised return where the credit has been reduced from that claimed earlier:

Provided further that the registered person shall not be allowed to take credit unless the said amount is admissible as input tax credit under this Act:

Provided also that such credit may be transferred to any of the registered persons having the same Permanent Account Number for which the centralised registration was obtained under the existing law.

(9) Where any CENVAT credit availed for the input services provided under the existing law has been reversed due to non-payment of the consideration within a period of three months, such credit can be reclaimed subject to the condition that the registered person has made the payment of the consideration for that supply of services within a period of three months from the appointed day.

(10) The amount of credit under sub-sections (3), (4) and (6) shall be calculated in such manner as may be prescribed.

*Explanation 1.*—For the purposes of sub-sections (3), (4) and (6), the expression “eligible duties” means—

58 of 1957. (i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;

51 of 1975. (ii) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975;

51 of 1975. (iii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975;

- (iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978; 40 of 1978.
- (v) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985; 5 of 1986.
- (vi) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; and 5 of 1986.
- (vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001, 14 of 2001.

in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

*Explanation 2.*—For the purposes of sub-section (5), the expression “eligible duties and taxes” means—

- (i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957; 58 of 1957.
- (ii) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975; 51 of 1975.
- (iii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975; 51 of 1975.
- (iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978; 40 of 1978.
- (v) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985; 5 of 1986.
- (vi) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; 5 of 1986.
- (vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001; and 14 of 2001.
- (viii) the service tax leviable under section 66B of the Finance Act, 1994, 32 of 1994.

in respect of inputs and input services received on or after the appointed day.

Transitional provisions relating to job work.

**141.** (1) Where any inputs received at a place of business had been removed as such or removed after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of existing law prior to the appointed day and such inputs are returned to the said place on or after the appointed day, no tax shall be payable if such inputs, after completion of the job work or otherwise, are returned to the said place within six months from the appointed day:

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if such inputs are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (a) of sub-section (8) of section 142.

(2) Where any semi-finished goods had been removed from the place of business to any other premises for carrying out certain manufacturing processes in accordance with the provisions of existing law prior to the appointed day and such goods (hereafter in this section referred to as “the said goods”) are returned to the said place on or after the appointed day, no tax shall be payable, if the said goods, after undergoing manufacturing processes or otherwise, are returned to the said place within six months from the appointed day:



Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if the said goods are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (a) of sub-section (8) of section 142:

Provided also that the manufacturer may, in accordance with the provisions of the existing law, transfer the said goods to the premises of any registered person for the purpose of supplying therefrom on payment of tax in India or without payment of tax for exports within the period specified in this sub-section.

(3) Where any excisable goods manufactured at a place of business had been removed without payment of duty for carrying out tests or any other process not amounting to manufacture, to any other premises, whether registered or not, in accordance with the provisions of existing law prior to the appointed day and such goods, are returned to the said place on or after the appointed day, no tax shall be payable if the said goods, after undergoing tests or any other process, are returned to the said place within six months from the appointed day:

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if the said goods are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (a) of sub-section (8) of section 142:

Provided also that the manufacturer may, in accordance with the provisions of the existing law, transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports within the period specified in this sub-section.

(4) The tax under sub-sections (1), (2) and (3) shall not be payable, only if the manufacturer and the job worker declare the details of the inputs or goods held in stock by the job worker on behalf of the manufacturer on the appointed day in such form and manner and within such time as may be prescribed.

**142. (1)** Where any goods on which duty, if any, had been paid under the existing law at the time of removal thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, the registered person shall be eligible for refund of the duty paid under the existing law where such goods are returned by a person, other than a registered person, to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Miscellaneous  
transitional  
provisions.

Provided that if the said goods are returned by a registered person, the return of such goods shall be deemed to be a supply.

(2) (a) where, in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised upwards on or after the appointed day, the registered person who had removed or provided such goods or services or both shall issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act;

(b) where, in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised downwards on or after the appointed day, the registered person who had removed or provided such goods or services or both may issue to the recipient a credit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such credit note shall be deemed to have been issued in respect of an outward supply made under this Act:

Provided that the registered person shall be allowed to reduce his tax liability on account of issue of the credit note only if the recipient of the credit note has reduced his input tax credit corresponding to such reduction of tax liability.

(3) Every claim for refund filed by any person before, on or after the appointed day, for refund of any amount of CENVAT credit, duty, tax, interest or any other amount paid under the existing law, shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944:

1 of 1944.

Provided that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse:

Provided further that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

(4) Every claim for refund filed after the appointed day for refund of any duty or tax paid under existing law in respect of the goods or services exported before or after the appointed day, shall be disposed of in accordance with the provisions of the existing law:

Provided that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse:

Provided further that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

(5) Every claim filed by a person after the appointed day for refund of tax paid under the existing law in respect of services not provided shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944.

1 of 1944.

(6) (a) every proceeding of appeal, review or reference relating to a claim for CENVAT credit initiated whether before, on or after the appointed day under the existing law shall be disposed of in accordance with the provisions of existing law, and any amount of credit found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act:

1 of 1944.

Provided that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act;

(b) every proceeding of appeal, review or reference relating to recovery of CENVAT credit initiated whether before, on or after the appointed day under the existing law shall be disposed of in accordance with the provisions of existing law and if any amount of credit becomes recoverable as a result of such appeal, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(7) (a) every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and if any

amount becomes recoverable as a result of such appeal, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of duty or tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

1 of 1944. (b) every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and any amount found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

(8) (a) where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes recoverable from the person, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act;

1 of 1944. (b) where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in cash under the said law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

(9) (a) where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of CENVAT credit is found to be inadmissible, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act;

1 of 1944. (b) where any return, furnished under the existing law, is revised after the appointed day but within the time limit specified for such revision under the existing law and if, pursuant to such revision, any amount is found to be refundable or CENVAT credit is found to be admissible to any taxable person, the same shall be refunded to him in cash under the existing law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

(10) Save as otherwise provided in this Chapter, the goods or services or both supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.

(11) (a) notwithstanding anything contained in section 12, no tax shall be payable on goods under this Act to the extent the tax was leviable on the said goods under the Value Added Tax Act of the State;

32 of 1994. (b) notwithstanding anything contained in section 13, no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994;

32 of 1994. (c) where tax was paid on any supply both under the Value Added Tax Act and under Chapter V of the Finance Act, 1994, tax shall be leviable under this Act and the taxable person shall be entitled to take credit of value added tax or service tax paid under the existing law to the extent of supplies made after the appointed day and such credit shall be calculated in such manner as may be prescribed.

(12) Where any goods sent on approval basis, not earlier than six months before the appointed day, are rejected or not approved by the buyer and returned to the seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within six months from the appointed day:

Provided that the said period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that the tax shall be payable by the person returning the goods if such goods are liable to tax under this Act, and are returned after a period specified in this sub-section:

Provided also that tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act, and are not returned within a period specified in this sub-section.

(13) Where a supplier has made any sale of goods in respect of which tax was required to be deducted at source under any law of a State or Union territory relating to Value Added Tax and has also issued an invoice for the same before the appointed day, no deduction of tax at source under section 51 shall be made by the deductor under the said section where payment to the said supplier is made on or after the appointed day.

*Explanation.*—For the purposes of this Chapter, the expressions “capital goods”, “Central Value Added Tax (CENVAT) credit”, “first stage dealer”, “second stage dealer”, or “manufacture” shall have the same meaning as respectively assigned to them in the Central Excise Act, 1944 or the rules made thereunder.

1 of 1944.

## CHAPTER XXI

### MISCELLANEOUS

Job work  
procedure.

**143.** (1) A registered person (hereafter in this section referred to as the “principal”) may under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise, and shall,—

(a) bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out, to any of his place of business, without payment of tax;

(b) supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be:

Provided that the principal shall not supply the goods from the place of business of a job worker in accordance with the provisions of this clause unless the said principal declares the place of business of the job worker as his additional place of business except in a case—

(i) where the job worker is registered under section 25; or

(ii) where the principal is engaged in the supply of such goods as may be notified by the Commissioner.

(2) The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.

(3) Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance

with the provisions of clause (b) of sub-section (1) within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out.

(4) Where the capital goods, other than moulds and dies, jigs and fixtures, or tools, sent for job work are not received back by the principal in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) within a period of three years of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out.

(5) Notwithstanding anything contained in sub-sections (1) and (2), any waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax, if such job worker is registered, or by the principal, if the job worker is not registered.

*Explanation.*—For the purposes of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker.

**144.** Where any document—

(i) is produced by any person under this Act or any other law for the time being in force; or

(ii) has been seized from the custody or control of any person under this Act or any other law for the time being in force; or

(iii) has been received from any place outside India in the course of any proceedings under this Act or any other law for the time being in force,

and such document is tendered by the prosecution in evidence against him or any other person who is tried jointly with him, the court shall—

(a) unless the contrary is proved by such person, presume—

(i) the truth of the contents of such document;

(ii) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;

(b) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

**145.** (1) Notwithstanding anything contained in any other law for the time being in force,—

(a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or

(b) a facsimile copy of a document; or

(c) a statement contained in a document and included in a printed material produced by a computer, subject to such conditions as may be prescribed; or

(d) any information stored electronically in any device or media, including any hard copies made of such information,

shall be deemed to be a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder, without further

Presumption  
as to  
documents in  
certain cases.

Admissibility  
of micro  
films,  
facsimile  
copies of  
documents and  
computer  
printouts as  
documents and  
as evidence.

proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) In any proceedings under this Act or the rules made thereunder, where it is desired to give a statement in evidence by virtue of this section, a certificate,—

(a) identifying the document containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer,

shall be evidence of any matter stated in the certificate and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

Common  
Portal.

**146.** The Government may, on the recommendations of the Council, notify the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed.

Deemed  
exports.

**147.** The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.

Special  
procedure for  
certain  
processes.

**148.** The Government may, on the recommendations of the Council, and subject to such conditions and safeguards as may be prescribed, notify certain classes of registered persons, and the special procedures to be followed by such persons including those with regard to registration, furnishing of return, payment of tax and administration of such persons.

Goods and  
services tax  
compliance  
rating.

**149.** (1) Every registered person may be assigned a goods and services tax compliance rating score by the Government based on his record of compliance with the provisions of this Act.

(2) The goods and services tax compliance rating score may be determined on the basis of such parameters as may be prescribed.

(3) The goods and services tax compliance rating score may be updated at periodic intervals and intimated to the registered person and also placed in the public domain in such manner as may be prescribed.

Obligation to  
furnish  
information  
return.

**150.** (1) Any person, being—

(a) a taxable person; or

(b) a local authority or other public body or association; or

(c) any authority of the State Government responsible for the collection of value added tax or sales tax or State excise duty or an authority of the Central Government responsible for the collection of excise duty or customs duty; or

(d) an income tax authority appointed under the provisions of the Income-tax Act, 1961; or

(e) a banking company within the meaning of clause (a) of section 45A of the Reserve Bank of India Act, 1934; or

(f) a State Electricity Board or an electricity distribution or transmission licensee under the Electricity Act, 2003, or any other entity entrusted with such functions by the Central Government or the State Government; or

43 of 1961.

2 of 1934.

36 of 2003.



- 16 of 1908. (g) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or
- 18 of 2013. (h) a Registrar within the meaning of the Companies Act, 2013; or
- 59 of 1988. (i) the registering authority empowered to register motor vehicles under the Motor Vehicles Act, 1988; or
- 30 of 2013. (j) the Collector referred to in clause (c) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or
- 42 of 1956. (k) the recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956; or
- 22 of 1996. (l) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996; or
- 2 of 1934. (m) an officer of the Reserve Bank of India as constituted under section 3 of the Reserve Bank of India Act, 1934; or
- 18 of 2013. (n) the Goods and Services Tax Network, a company registered under the Companies Act, 2013; or
- (o) a person to whom a Unique Identity Number has been granted under sub-section (9) of section 25; or
- (p) any other person as may be specified, on the recommendations of the Council, by the Government,

who is responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details of transaction of goods or services or both or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, in such form and manner and to such authority or agency as may be prescribed.

(2) Where the Commissioner, or an officer authorised by him in this behalf, considers that the information furnished in the information return is defective, he may intimate the defect to the person who has furnished such information return and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such further period which, on an application made in this behalf, the said authority may allow and if the defect is not rectified within the said period of thirty days or, the further period so allowed, then, notwithstanding anything contained in any other provisions of this Act, such information return shall be treated as not furnished and the provisions of this Act shall apply.

(3) Where a person who is required to furnish information return has not furnished the same within the time specified in sub-section (1) or sub-section (2), the said authority may serve upon him a notice requiring furnishing of such information return within a period not exceeding ninety days from the date of service of the notice and such person shall furnish the information return.

**151.** (1) The Commissioner may, if he considers that it is necessary so to do, by notification, direct that statistics may be collected relating to any matter dealt with by or in connection with this Act.

Power to collect statistics.

(2) Upon such notification being issued, the Commissioner, or any person authorised by him in this behalf, may call upon the concerned persons to furnish such information or returns, in such form and manner as may be prescribed, relating to any matter in respect of which statistics is to be collected .

Bar on disclosure of information.

**152.** (1) No information of any individual return or part thereof with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorised representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act.

(2) Except for the purposes of prosecution under this Act or any other Act for the time being in force, no person who is not engaged in the collection of statistics under this Act or compilation or computerisation thereof for the purposes of this Act, shall be permitted to see or have access to any information or any individual return referred to in section 151.

(3) Nothing in this section shall apply to the publication of any information relating to a class of taxable persons or class of transactions, if in the opinion of the Commissioner, it is desirable in the public interest to publish such information.

Taking assistance from an expert.

**153.** Any officer not below the rank of Assistant Commissioner may, having regard to the nature and complexity of the case and the interest of revenue, take assistance of any expert at any stage of scrutiny, inquiry, investigation or any other proceedings before him.

Power to take samples.

**154.** The Commissioner or an officer authorised by him may take samples of goods from the possession of any taxable person, where he considers it necessary, and provide a receipt for any samples so taken.

Burden of proof.

**155.** Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person.

Persons deemed to be public servants. Protection of action taken under this Act.

**156.** All persons discharging functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

**157.** (1) No suit, prosecution or other legal proceedings shall lie against the President, State President, Members, officers or other employees of the Appellate Tribunal or any other person authorised by the said Appellate Tribunal for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(2) No suit, prosecution or other legal proceedings shall lie against any officer appointed or authorised under this Act for anything which is done or intended to be done in good faith under this Act or the rules made thereunder.

Disclosure of information by a public servant.

**158.** (1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceedings before a criminal court), or in any record of any proceedings under this Act shall, save as provided in sub-section (3), not be disclosed.

(2) Notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as otherwise provided in sub-section (3), require any officer appointed or authorised under this Act to produce before it or to give evidence before it in respect of particulars referred to in sub-section (1).

1 of 1872.

(3) Nothing contained in this section shall apply to the disclosure of,—

(a) any particulars in respect of any statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1988, or any other law for the time being in force; or

45 of 1860.  
49 of 1988.

(b) any particulars to the Central Government or the State Government or to any person acting in the implementation of this Act, for the purposes of carrying out the objects of this Act; or

(c) any particulars when such disclosure is occasioned by the lawful exercise under this Act of any process for the service of any notice or recovery of any demand; or

(d) any particulars to a civil court in any suit or proceedings, to which the Government or any authority under this Act is a party, which relates to any matter arising out of any proceedings under this Act or under any other law for the time being in force authorising any such authority to exercise any powers thereunder; or

(e) any particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by this Act; or

(f) any particulars where such particulars are relevant for the purposes of any inquiry into the conduct of any officer appointed or authorised under this Act, to any person or persons appointed as an inquiry officer under any law for the time being in force; or

(g) any such particulars to an officer of the Central Government or of any State Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty; or

(h) any particulars when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or

(i) any particulars relevant to any inquiry into a charge of misconduct in connection with any proceedings under this Act against a practising advocate, a tax practitioner, a practising cost accountant, a practising chartered accountant, a practising company secretary to the authority empowered to take disciplinary action against the members practising the profession of a legal practitioner, a cost accountant, a chartered accountant or a company secretary, as the case may be; or

(j) any particulars to any agency appointed for the purposes of data entry on any automated system or for the purpose of operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes; or

(k) any particulars to an officer of the Government as may be necessary for the purposes of any other law for the time being in force; or

(l) any information relating to any class of taxable persons or class of transactions for publication, if, in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.

**159. (1)** If the Commissioner, or any other officer authorised by him in this behalf, is of the opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings or prosecution under this Act in respect of such person, it may cause to be published such name and particulars in such manner as it thinks fit.

Publication of information in respect of persons in certain cases.

(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Appellate Authority under section 107 has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

*Explanation.*—In the case of firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Commissioner, or any other officer authorised by him in this behalf, circumstances of the case justify it.

**160. (1)** No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any

Assessment proceedings, etc., not to be invalid on certain grounds.

mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.

(2) The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

Rectification of errors apparent on the face of record.

**161.** Without prejudice to the provisions of section 160, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any officer appointed under this Act or an officer appointed under the State Goods and Services Tax Act or an officer appointed under the Union Territory Goods and Services Tax Act or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be:

Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document:

Provided further that the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission:

Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.

Bar on jurisdiction of civil courts.

**162.** Save as provided in sections 117 and 118, no civil court shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under this Act.

Levy of fee.

**163.** Wherever a copy of any order or document is to be provided to any person on an application made by him for that purpose, there shall be paid such fee as may be prescribed.

Power of Government to make rules.

**164.** (1) The Government may, on the recommendations of the Council, by notification, make rules for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provisions are to be or may be made by rules.

(3) The power to make rules conferred by this section shall include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Act come into force.

(4) Any rules made under sub-section (1) or sub-section (2) may provide that a contravention thereof shall be liable to a penalty not exceeding ten thousand rupees.

Power to make regulations.

**165.** The Board may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

Laying of rules, regulations and notifications.

**166.** Every rule made by the Government, every regulation made by the Board and every notification issued by the Government under this Act, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the

successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or in the notification, as the case may be, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.

**167.** The Commissioner may, by notification, direct that subject to such conditions, if any, as may be specified in the notification, any power exercisable by any authority or officer under this Act may be exercisable also by another authority or officer as may be specified in such notification.

Delegation of powers.

**168.** (1) The Board may, if it considers it necessary or expedient so to do for the purpose of uniformity in the implementation of this Act, issue such orders, instructions or directions to the central tax officers as it may deem fit, and thereupon all such officers and all other persons employed in the implementation of this Act shall observe and follow such orders, instructions or directions.

Power to issue instructions or directions.

(2) The Commissioner specified in clause (91) of section 2, sub-section (3) of section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, sub-section (2) of section 38, sub-section (6) of section 39, sub-section (5) of section 66, sub-section (1) of section 143, sub-section (1) of section 151, clause (1) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.

**169.** (1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:—

Service of notice in certain circumstances.

(a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or

(b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or

(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or

(d) by making it available on the common portal; or

(e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or

(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).



(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

Rounding off of tax, etc.

**170.** The amount of tax, interest, penalty, fine or any other sum payable, and the amount of refund or any other sum due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

Anti-profiteering measure.

**171. (1)** Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.

(2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

(3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.

Removal of difficulties.

**172. (1)** If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

Amendment of Act 32 of 1994.

**173.** Save as otherwise provided in this Act, Chapter V of the Finance Act, 1994 shall be omitted.

Repeal and saving.

**174. (1)** Save as otherwise provided in this Act, on and from the date of commencement of this Act, the Central Excise Act, 1944 (except as respects goods included in entry 84 of the Union List of the Seventh Schedule to the Constitution), the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, and the Central Excise Tariff Act, 1985 (hereafter referred to as the repealed Acts) are hereby repealed.

1 of 1944.

16 of 1955.

58 of 1957.

40 of 1978.

5 of 1986.

(2) The repeal of the said Acts and the amendment of the Finance Act, 1994 (hereafter referred to as “such amendment” or “amended Act”, as the case may be) to the extent mentioned in the sub-section (1) or section 173 shall not—

32 of 1994.

(a) revive anything not in force or existing at the time of such amendment or repeal; or

(b) affect the previous operation of the amended Act or repealed Acts and orders or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the amended Act or repealed Acts or orders under such repealed or amended Acts:



Provided that any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the appointed day; or

(d) affect any duty, tax, surcharge, fine, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of the amended Act or repealed Acts; or

(e) affect any investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such duty, tax, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so amended or repealed;

(f) affect any proceedings including that relating to an appeal, review or reference, instituted before on, or after the appointed day under the said amended Act or repealed Acts and such proceedings shall be continued under the said amended Act or repealed Acts as if this Act had not come into force and the said Acts had not been amended or repealed.

(3) The mention of the particular matters referred to in sub-sections (1) and (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

## SCHEDULE I

[See section 7]

### ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.

2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:

Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

3. Supply of goods—

(a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

(b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

4. Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

## SCHEDULE II

[See section 7]

## ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

## 1. Transfer

(a) any transfer of the title in goods is a supply of goods;

(b) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services;

(c) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.

## 2. Land and Building

(a) any lease, tenancy, easement, licence to occupy land is a supply of services;

(b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

## 3. Treatment or process

Any treatment or process which is applied to another person's goods is a supply of services.

## 4. Transfer of business assets

(a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person;

(b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a supply of services;

(c) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—

(i) the business is transferred as a going concern to another person; or

(ii) the business is carried on by a personal representative who is deemed to be a taxable person.

## 5. Supply of services

The following shall be treated as supply of services, namely:—

(a) renting of immovable property;

(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

*Explanation.*—For the purposes of this clause—

(1) the expression "competent authority" means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:—

(i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or

20 of 1972.

(ii) a chartered engineer registered with the Institution of Engineers (India); or

(iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;

(2) the expression "construction" includes additions, alterations, replacements or remodelling of any existing civil structure;

(c) temporary transfer or permitting the use or enjoyment of any intellectual property right;

(d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;

(e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and

(f) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

#### 6. Composite supply

The following composite supplies shall be treated as a supply of services, namely:—

(a) works contract as defined in clause (119) of section 2; and

(b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

#### 7. Supply of Goods

The following shall be treated as supply of goods, namely:—

Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

## SCHEDULE III

[See section 7]

ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS  
NOR A SUPPLY OF SERVICES

1. Services by an employee to the employer in the course of or in relation to his employment.
2. Services by any court or Tribunal established under any law for the time being in force.
3. (a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
- (b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
- (c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
6. Actionable claims, other than lottery, betting and gambling.

*Explanation.*—For the purposes of paragraph 2, the term "court" includes District Court, High Court and Supreme Court.

DR. G. NARAYANARAJU  
*Secretary to the Govt. of India.*

P.R. 54  
SC - 20

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,  
ಹೆಚ್. ರಾಜ್‌ಕುಮಾರ್  
ಸಹಾಯಕ ಪ್ರಾರೋಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ  
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರ),  
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಇಲಾಖೆ.

## ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂಪ್ರ ೦೪ ಕೇನಿಪ್ರ ೨೦೧೭, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: ೨೫-೦೩-೨೦೧೭

೨೦೧೭ನೇ ಸಾಲಿನ ೦೪-೦೧-೨೦೧೭ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ ೩(ii) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R.3(E)ನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

## MINISTRY OF WOMEN AND CHILD DEVELOPMENT

## NOTIFICATION

New Delhi, the 4th January, 2017

**G.S.R. 3(E).**—In exercise of the powers conferred by clause (c) of section 68 read with clause (3) of section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016), and in supersession of the Guidelines Governing Adoption of Children, 2015 published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) dated the 17<sup>th</sup> July, 2015 vide notification number S.O. 1945 (E) dated the 17<sup>th</sup> July, 2015, except as respects things done or omitted to be done before such supersession, the Central Government hereby notifies the following adoption regulations as framed by the Central Adoption Resource Authority.

## CHAPTER – I

## PRELIMINARY

1. **Short title and commencement.**— (1) These regulations may be called Adoption Regulations, 2017.  
(2) They shall come into force on the 16th January, 2017.
2. **Definitions.**— In these regulations, unless the context otherwise requires,– (1) "Act" means the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016);  
(2) "Adoption Committee" means the Committee comprising of the authorised office-bearer of the Specialised Adoption Agency concerned, its visiting doctor or a medical officer from a Government hospital and one official from the District Child Protection Unit; and shall also include a representative of the Child Care Institution, in case the adoption is from a Child Care Institution other than the Specialised Adoption Agency;  
(3) "adoption fee" means the fee as prescribed by the authority to be received from the prospective adoptive parents directly, in case they are living in India and through Authorised Foreign Adoption Agency or Central Authority or the Government department, as the case may be, in cases of inter-country adoptions;  
(4) "Child Adoption Resource Information and Guidance System" means an online information system for facilitating, guiding and monitoring the adoption programme;  
(5) "child legally free for adoption" means a child declared as such by the Committee as per the format provided in Schedule I, after making due inquiry under section 38 of the Act;  
(6) "Child Study Report" means the report which contains details about the child, including his date of birth and social background as per the format provided in Schedule II;  
(7) "disruption" means the child being unmatched from the adoptive family due to non-adjustment of the child with the adoptive family after placement, but prior to the completion of the legal process of adoption;  
(8) "dissolution" means the annulment of the adoption legally, due to non-adjustment of the child with the adoptive family, after the court decree for the adoption has been obtained;  
(9) "habitual residence" means a place of settled dwelling, which constitutes the ordinary residence of a person at least for a period of one year;  
(10) "Hague Adoption Convention" means the Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption(1993);  
(11) "Home Study Report" means a report containing details of the prospective adoptive parents, which shall include social and economic status, family background, description of home and atmosphere therein and health status as per the format provided in Schedule VII;  
(12) "in-country adoption" means adoption of a child by a citizen of India residing in India;  
(13) "Medical Examination Report" means the report in respect of health condition of a child given by a duly licensed physician in the format provided in Schedule III and Schedule IV;  
(14) "No Objection Certificate" means the certificate issued by the Authority permitting the child to be placed in adoption with foreign or overseas citizen of India or non-resident Indian prospective adoptive parents;  
(15) "pending adoptions" means those adoption matters, where the prospective adoptive parents are already registered for adoption or who have accepted the referral of a child from a Specialised Adoption Agency or Child Care Institution before the expiry, suspension or withdrawal of recognition of such Specialised Adoption Agency or Child Care Institution;

- (16) “pre-adoption foster care” means a stage when the temporary custody of a child is given to prospective adoptive parents, till the adoption order is granted by the competent court;
- (17) “resident Indian” means an Indian citizen living in India;
- (18) “rules” means the rules notified under section 110 of the Act;
- (19) “Schedule” means a Schedule annexed to these regulations;
- (20) “social worker” means a person having either post graduate degree in social work or sociology or psychology or child development, or a graduate degree in child education or child development or child protection, and who is engaged by the Child Care Institution or Specialised Adoption Agency or authorised by District Child Protection Unit or State Adoption Resource Agency or Central Adoption Resource Authority, and is having at least ten years’ experience in preparing Home Study Report, Child Study Report, rendering post-adoption services or performing any other work assigned to such person;
- (21) “special need child” means a child who is mentally ill or physically challenged or both as specified in Schedule XVIII;
- (22) words and expressions used but not defined in these regulations shall have the same meaning as assigned to them in the Act or the rules made thereunder.

**3. Fundamental principles governing adoption.-** The following fundamental principles shall govern adoptions of children from India, namely:-

- (a) the child’s best interests shall be of paramount consideration, while processing any adoption placement;
- (b) preference shall be given to place the child in adoption with Indian citizens and with due regard to the principle of placement of the child in his own socio-cultural environment, as far as possible;
- (c) all adoptions shall be registered on Child Adoption Resource Information and Guidance System and the confidentiality of the same shall be maintained by the Authority.

**4. Child eligible for adoption.-** The following shall be eligible for adoption, namely:-

- (a) any orphan or abandoned or surrendered child, declared legally free for adoption by the Child Welfare Committee;
- (b) a child of a relative defined under sub-section (52) of section 2 of the Act;
- (c) child or children of spouse from earlier marriage, surrendered by the biological parent(s) for adoption by the step-parent.

**5. Eligibility criteria for prospective adoptive parents.-** (1) The prospective adoptive parents shall be physically, mentally and emotionally stable, financially capable and shall not have any life threatening medical condition.

(2) Any prospective adoptive parents, irrespective of his marital status and whether or not he has biological son or daughter, can adopt a child subject to following, namely:-

- (a) the consent of both the spouses for the adoption shall be required, in case of a married couple;
- (b) a single female can adopt a child of any gender;
- (c) a single male shall not be eligible to adopt a girl child;

(3) No child shall be given in adoption to a couple unless they have at least two years of stable marital relationship.

(4) The age of prospective adoptive parents, as on the date of registration, shall be counted for deciding the eligibility and the eligibility of prospective adoptive parents to apply for children of different age groups shall be as under:-

Age of the child	Maximum composite age of prospective adoptive parents (couple)	Maximum age of single prospective adoptive parent
Upto 4 years	90 years	45 years
Above 4 and upto 8 years	100 years	50 years
Above 8 and upto 18 years	110 years	55 years



- (5) In case of couple, the composite age of the prospective adoptive parents shall be counted.
- (6) The minimum age difference between the child and either of the prospective adoptive parents shall not be less than twenty-five years.
- (7) The age criteria for prospective adoptive parents shall not be applicable in case of relative adoptions and adoption by step-parent.
- (8) Couples with three or more children shall not be considered for adoption except in case of special need children as defined in sub-regulation (21) of regulation 2, hard to place children as mentioned in regulation 50 and in case of relative adoption and adoption by step-parent.

## CHAPTER II

### PROCEDURE RELATING TO CHILDREN FOR ADOPTION

6. **Procedure relating to orphan or abandoned child.-** (1) The provisions relating to the process of declaring an orphan or abandoned child, as legally free for adoption are laid down in sections 31, 32, 36, clauses (a) to (c) and clause (h) of sub-section (1) of section 37 and section 40 of the Act, as well as under the relevant provisions of the rules made thereunder.
- (2) An orphan or abandoned child received by a Child Care Institution, including a Specialised Adoption Agency, directly without the involvement of Child Welfare Committee, shall be produced before the Child Welfare Committee within twenty-four hours (excluding the journey time) along with a report as per the format given in Form 17 of Juvenile Justice (Care and Protection of Children) Model Rules, 2016 and a copy of such report shall be submitted by the Child Care Institution or the Specialised Adoption Agency, as the case may be, to the local police station within the same period.
- (3) If a child is under treatment or not in a condition to be produced before the Child Welfare Committee, only documents related to the child shall be produced before the Child Welfare Committee within the said timeline and the Child Welfare Committee may visit the ailing child.
- (4) The Child Welfare Committee, pending inquiry, shall issue an order in Form 18 of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016 for a short term placement or interim care of the child, as per the provisions of sub-section (c) of section 37 of the Act and the sub-rule 26 of rule 18 of the said rules.
- (5) On admission of the child, his details and photograph shall be entered online in the Child Adoption Resource Information and Guidance System in the prescribed format by the Specialised Adoption Agency within three working days of receiving the child, and the photograph of the child shall be changed by the Specialised Adoption Agency every six months in Child Adoption Resource Information and Guidance System.
- (6) For tracing out the biological parents or the legal guardian(s), the Child Welfare Committee, after taking into account the risk factors, and in the best interest of the child, may direct the District Child Protection Unit to advertise the particulars and photograph of an orphan or abandoned child in a national newspaper with wide circulation within three working days from the time of receiving the child and also ensure entry of data in the designated portal in its missing or found column by the concerned Child Care Institution or Specialised Adoption Agency.
- (7) In case where the child is from another State, the publication shall be done in the known place of origin of the child in the local language and such publications shall be facilitated by State Adoption Resource Agency concerned.
- (8) Wherever District Child Protection Unit is not functional, the District Magistrate concerned shall get such advertisement issued.
- (9) In case the biological parents or legal guardian cannot be traced, despite the efforts specified in sub-regulations (6) to (8), the District Child Protection Unit shall accordingly, submit a report to the Child Welfare Committee within thirty days from the date of production of the child before the Child Welfare Committee.
- (10) The Child Care Institution or Specialised Adoption Agency shall submit a report to the Child Welfare Committee, immediately on completion of thirty days from the date of production of the child, before the Child Welfare Committee and the report shall include any information revealed by the child during his short term placement and details of person(s) whosoever approached for claiming the child, if any.
- (11) In case the report from the local police regarding the non-traceability of the biological parents or legal guardian is not submitted within two or four months in the case of an abandoned child less than two or four years of age respectively, such report shall be deemed to have been given.
- (12) The Child Welfare Committee shall use the designated portal to ascertain whether the abandoned child or orphan child is a missing child.
- (13) The Child Welfare Committee, after taking actions as per the provisions of the Act, rules made thereunder and these regulations shall issue an order signed by any three members of the Child Welfare Committee declaring

the abandoned or orphan child as legally free for adoption in the format at Schedule I within a period of two or four months, from the date of production of the child before the Child Welfare Committee, in case of a child upto two or above two years of age respectively.

- (14) The inquiry under section 36 of the Act and the order declaring an abandoned or orphan child as legally free for adoption by the Child Welfare Committee under section 38 of the Act shall be completed in the district where the child was initially found, or in the district to which the child is shifted under orders of the Child Welfare Committee.
- (15) The Child Welfare Committee and Medical Examination Report of an orphan or abandoned child shall be prepared in the format at Schedule II and III respectively and posted in the Child Adoption Resource Information and Guidance System by the Specialised Adoption Agency maximum within ten days from the date the child is declared legally free for adoption and the details shall be updated on Child Adoption Resource Information and Guidance System every six months or whenever appreciable physical changes are observed in the child.
- (16) The Child Welfare Committee and Medical Examination Report shall be made available in English, apart from the local language.
- (17) The District Child Protection Unit shall facilitate the Specialised Adoption Agency in uploading the Child Study Report and Medical Examination Report in Child Adoption Resource Information and Guidance System, in case the Specialised Adoption Agency is facing any technical difficulty.
- (18) The procedure for declaring a child of parents with mental disability as legally free for adoption by the Child Welfare Committee shall be done on the basis of a certificate reflecting mental disability of the parents from the medical board constituted by the Central Government or the State Government, as the case may be, as per guidelines for mental illness issued by the Government of India in the Ministry of Social Justice and Empowerment from time to time.
- (19) In case of siblings or twins, the Child Welfare Committee shall specify the status of the children as siblings or twins and declare the children as legally free in a single order.

**7. Procedure relating to a surrendered child.-** (1) A parent or guardian wishing to surrender a child under sub-section (1) of section 35 of the Act, shall apply to the Child Welfare Committee in the Form 23 of Juvenile Justice (Care and Protection of Children) Model Rules, 2016.

- (2) For parents or guardians who are unable to give an application, due to illiteracy or any other reason, the Child Welfare Committee shall facilitate the same through the legal aid counsel provided by the Legal Services Authority.
- (3) The Deed of Surrender shall be executed as per Schedule V.
- (4) If the surrendering parent is an unmarried mother, the Deed of Surrender may be executed in the presence of preferably any single female member of the Child Welfare Committee.
- (5) If a child born to a married couple is to be surrendered, both parents shall sign the Deed of Surrender and in case one of them is dead, death certificate is required to be furnished in respect of the deceased parent.
- (6) If a child born to a married couple is to be surrendered by one biological parent and the whereabouts of the other parent are not known, the child shall be treated as abandoned child and further procedures in accordance with regulation 6 of these regulations shall be followed.
- (7) In case of a child born out of wedlock, only the mother can surrender the child and if the mother is a minor, the Deed of Surrender shall be signed by an accompanying adult as the witness.
- (8) If the surrender is by a person other than the biological parents who is not appointed as a guardian by a court of law, the child shall be treated as abandoned child and further procedures in accordance with regulation 6 shall be followed.
- (9) The Specialised Adoption Agency and the Child Welfare Committee shall ensure that a copy of the Deed of Surrender is given to the surrendering parents or person.
- (10) The details of the child along with his photograph shall be entered online in the Child Adoption Resource Information and Guidance System by the Specialised Adoption Agency within three working days from the time of receiving the child.
- (11) To discourage surrender by biological parents, efforts shall be made by the Specialised Adoption Agency or the Child Welfare Committee for exploring the possibility of parents retaining the child, which shall include counselling or linking them to the counselling center set up at the Authority or State Adoption Resource Agency, encouraging them to retain the child and explaining that the process of surrender is irrevocable.

- (12) The Specialised Adoption Agency and the Child Welfare Committee shall ensure that the surrendering parents or the legal guardian is made aware that they can reclaim the surrendered child only within a period of sixty days from the date of surrender.
  - (13) Due regard shall be given to the privacy of the surrendering parents and the surrendered child by the authorities and agencies involved in the process.
  - (14) No public notice or advertisement shall be issued in the case of a surrendered child.
  - (15) In case the surrendering biological parent has not claimed back the child during the reconsideration period, the same shall be intimated by the Specialised Adoption Agency to the Child Welfare Committee on completion of sixty days from the date of surrender.
  - (16) The reconsideration period for the biological parents is specified in sub-section (3) of section 35 of the Act and no further notice shall be issued to the surrendering parents.
  - (17) The Child Welfare Committee shall issue an order signed by at least three members declaring the surrendered child as legally free for adoption after the expiry of sixty days from the date of surrender, in the format at Schedule I.
  - (18) The Child Study Report and Medical Examination Report of the surrendered child shall be prepared and posted in the Child Adoption Resource Information and Guidance System by the Specialised Adoption Agency, within ten days from the date the child is declared legally free for adoption, in the format at Schedule II and Schedule III of these Regulations respectively.
  - (19) The Child Study Report and Medical Examination Report shall be made available in English (apart from the local language) and the District Child Protection Unit shall facilitate the Specialised Adoption Agency in uploading the Child Study Report and Medical Examination Report in Child Adoption Resource Information and Guidance System, in case the Specialised Adoption Agency is facing any technical difficulty.
  - (20) Strict confidentiality shall be maintained in cases of all documents pertaining to biological parents in all circumstances unless the surrendering parents have expressed their willingness for divulging the same.
  - (21) The surrender of a child by an unwed mother before a single woman member of the Child Welfare Committee shall be considered as surrender of the child before the Committee as envisaged under section 35 of the Act, and her right to privacy has to be protected.
  - (22) The surrender of a child before Child Welfare Committee shall be in camera.
  - (23) The surrender of child or children by the biological parents for adoption by the step-parent shall be before the Child Welfare Committee, for adoption, on the ground of emotional and social factors as envisaged under sub-section (1) of section 35 of the Act, in the format given at Schedule XXI.
- 8. Availability of child for adoption.-** As soon as a child is declared legally free for adoption by the Child Welfare Committee, such child shall be allowed to be given in adoption to a resident Indian or non-resident Indian parents:

Provided that such child shall be allowed to be given in inter-country adoption.-

- (a) after sixty days, if the child is below five years of age;
- (b) after thirty days, if the child is above five years of age or is a sibling;
- (c) after fifteen days, if the child has any mental illness or physical disability as listed in Schedule XVIII.

**Explanation.-** For the purposes of this regulation, it is clarified that the time limits specified in the proviso shall be calculated from the date, the certificate issued by the Child Welfare Committee declaring the child as legally free for adoption, is uploaded in Child Adoption Resource Information and Guidance System.

### CHAPTER III

#### ADOPTION PROCEDURE FOR RESIDENT INDIANS

- 9. Registration and home study of the prospective adoptive parents.-** (1) The Indian prospective adoptive parents irrespective of their religion, if interested to adopt an orphan or abandoned or surrendered child, shall apply for the same to Specialised Adoption Agencies through Child Adoption Resource Information and Guidance System by filling up the online application form, as provided in Schedule VI, and uploading the relevant documents thereby registering themselves as prospective adoptive parents.
- (2) The prospective adoptive parents shall opt for desired State or States by giving option for those particular States at the time of registration.
- (3) Registration on Child Adoption Resource Information and Guidance System would be a deemed registration in all Specialised Adoption Agencies of the State or States they have opted for.

- (4) The registration number of prospective adoptive parents shall be available with all the Specialised Adoption Agencies in those State or States, as the case may be.
- (5) The registration shall be complete and confirmed to the prospective adoptive parents immediately on receipt of the completed application form and requisite documents on Child Adoption Resource Information and Guidance System:  
Provided that the documents shall be uploaded within a period of thirty days from the date of registration failing which the prospective adoptive parents have to register afresh.
- (6) The prospective adoptive parents shall get their registration number from the acknowledgement slip and use it for viewing the progress of their application.
- (7) The prospective adoptive parents shall select a Specialised Adoption Agency nearest to their residence for Home Study Report in their State of habitual residence.
- (8) The Home Study Report of the prospective adoptive parents shall be prepared through the social worker of selected Specialised Adoption Agency and in case they are unable to conduct Home Study Report within stipulated time, they shall take the assistance of a social worker from a panel maintained by the State Adoption Resource Agency or District Child Protection Unit, as the case may be.
- (9) The Specialised Adoption Agency or the empanelled social worker of the State Adoption Resource Agency or District Child Protection Unit shall counsel the prospective adoptive parents during the home study.
- (10) The Home Study Report shall be completed in the format given in Schedule VII, within thirty days from the date of submission of requisite documents and shall be shared with the prospective adoptive parents immediately, thereafter.
- (11) The Home Study Report shall be posted in the Child Adoption Resource Information and Guidance System by the Specialised Adoption Agency as soon as it is complete.
- (12) The Home Study Report shall remain valid for three years and shall be the basis for adoption of a child by the prospective adoptive parents from anywhere in the country.
- (13) The prospective adoptive parents shall be declared eligible and suitable by the Specialised Adoption Agency based upon the Home Study Report and supporting documents and in case any prospective adoptive parent is not declared eligible or suitable, the reasons for the same shall be recorded in the Child Adoption Resource Information and Guidance System.
- (14) The prospective adoptive parents may appeal against the decision of rejection to the Authority as provided regulation 59.
- (15) The appeal referred to in sub-regulation (14) shall be disposed of within a period of fifteen days and the decision of the Authority in this regard shall be binding.
- (16) The District Child Protection Unit shall facilitate online registration of application of prospective adoptive parents, uploading of their documents and also for addressing technical difficulties faced by the Specialised Adoption Agencies.
- (17) The adoption of a child by the prospective adoptive parents, after completion of their registration and Home Study Report, shall depend upon the availability of a suitable child.
- 10. Referral of a child from a Specialised Adoption Agency through Child Adoption Resource Information and Guidance System to prospective adoptive parents.-** (1) The seniority of the prospective adoptive parents for child referral shall be from the date of uploading of documents and completion of registration process in Child Adoption Resource Information and Guidance System.
- (2) On the basis of seniority, the prospective adoptive parents shall be referred online profile of three children which will include the photographs, Child Study Report and Medical Examination Report, in their preference category, if any, from one or more Specialised Adoption Agencies through the Child Adoption Resource Information and Guidance System in one or more referrals.
- (3) After viewing the profile of the child or children, the prospective adoptive parents may reserve one child within a period of forty-eight hours for possible adoption and the rest of the children would be released by Child Adoption Resource Information and Guidance System for other prospective adoptive parents in the waiting list.
- (4) The Specialised Adoption Agency shall get the details of the prospective adoptive parents through the Child Adoption Resource Information and Guidance System for fixing an appointment with the prospective adoptive parents for matching, to assess the suitability of the prospective adoptive parents by an Adoption Committee as defined in sub-regulation (2) of regulation 2 and the Adoption Committee shall prepare the minutes of the meeting as per format provided in Schedule XXVII.

- (5) The quorum of the Adoption Committee shall be two members and the quorum of the Adoption Committee in case of adoption from a Child Care Institution shall be three members, while the presence of one official from the District Child Protection Unit would be mandatory.
- (6) The Specialised Adoption Agency shall also organise a meeting of the prospective adoptive parents with the child.
- (7) The entire process of matching shall be completed within a maximum period of twenty days from the date of reserving the child.
- (8) The Specialised Adoption Agency shall counsel the prospective adoptive parents when they visit the agency for matching.
- (9) While accepting the child, the prospective adoptive parents shall sign the Child Study Report and Medical Examination Report which may be downloaded from the Child Adoption Resource Information and Guidance System, in the presence of the social worker or chief functionary of the Specialised Adoption Agency and the Specialised Adoption Agency shall record the acceptance by the prospective adoptive parents in the Child Adoption Resource Information and Guidance System.
- (10) In case the prospective adoptive parents are not selected for the child by the Adoption Committee, the reason for non-selection of the prospective adoptive parents shall be recorded in the Child Adoption Resource Information and Guidance System.
- (11) If grounds of rejection are found to be due to systemic error or on non-justifiable reasons, seniority of the prospective adoptive parents shall be retained.
- (12) In case the prospective adoptive parents do not accept the reserved child or the Adoption Committee does not find the prospective adoptive parents suitable, then the prospective adoptive parents shall be relegated to the bottom of the seniority list, as on that date, who may avail a fresh chance when the seniority becomes due and the same procedure shall be followed in the subsequent chances.
- (13) In all cases referred to in sub-regulations (12), the reasons for not considering the child have to be clearly stated in Child Adoption Resource Information and Guidance System.
- (14) The registration of prospective adoptive parents shall continue till child adoption, with revalidation of the Home Study Report in every three years.
- (15) The prospective adoptive parents may also get the Medical Examination Report of the child reviewed by a medical practitioner of their choice before giving their acceptance for adoption of the child.
- 11. Pre-adoption foster care.-** (1) The child shall be taken in pre-adoption foster care by the prospective adoptive parents within ten days from the date of matching, after signing the pre-adoption foster care undertaking in the format provided in Schedule VIII.
- (2) The prospective adoptive parents shall provide original documents or notarized copy of the documents to the Specialised Adoption Agency as specified in Schedule IX.
- 12. Legal procedure.-** (1) The Specialised Adoption Agency shall file an application in the court concerned, having jurisdiction over the place where the Specialised Adoption Agency is located, with relevant documents in original as specified in Schedule IX within ten working days from the date of matching of the child with the prospective adoptive parents and in case of inter-country adoption, from the date of receiving No Objection Certificate from the Authority, for obtaining the adoption order from court.
- (2) The Specialised Adoption Agency shall file an application in the given format as per Schedule XXVIII or XXIX, as applicable.
- (3) In case the child is from a Child Care Institution, which is not a Specialised Adoption Agency and is located in another district, the Specialised Adoption Agency shall file the application in the court concerned, in the district where the child or the Specialised Adoption Agency is located and in such a case, the Child Care Institution will be a co-petitioner along with the Specialised Adoption Agency and the Child Care Institution shall render necessary assistance to the Specialised Adoption Agency concerned.
- (4) In case of siblings or twins, the Specialised Adoption Agency shall file single application in the court.
- (5) Since an adoption case is non-adversarial in nature, the Specialised Adoption Agency shall not make any opposite party or respondent in the adoption application.
- (6) The court shall hold the adoption proceeding in-camera and dispose of the case within a period of two months from the date of filing of the adoption application by the Specialised Adoption Agency, as provided under sub-section (2) of section 61 of the Act.
- (7) The adoptive parents shall not be asked in the adoption order to execute any bond or make investment in the name of the child, considering the fact that their psycho-social profile and financial status have already been ascertained from the Home Study Report and other supporting documents.



- (8) The Specialised Adoption Agency shall obtain a certified copy of the adoption order from the court and shall forward it to the prospective adoptive parents within ten days and it shall also post a copy of the order and update the relevant entries in the Child Adoption Resource Information and Guidance System.
- (9) Registration of an adoption deed shall not be mandatory as per the Act.
- (10) The Specialised Adoption Agency shall apply to the birth certificate issuing authority for obtaining the birth certificate of the child within three working days from the date of issuance of adoption order, with the name of adoptive parents as parents, and date of birth as recorded in the adoption order and the same shall be issued by the issuing authority within five working days from the date of receipt of the application.
- (11) The Specialised Adoption Agency shall submit an affidavit to the court while filing a petition as provided in Schedule XXIII.
- 13. Follow-up of progress of adopted child.-** (1) The Specialised Adoption Agency which has prepared the Home Study Report, shall prepare the post-adoption follow-up report on six monthly basis for two years from the date of pre-adoption foster placement with the prospective adoptive parents, in the format as provided in Schedule XII and upload the same in Child Adoption Resource Information and Guidance System along with photographs of the child.
- (2) In case the adoptive parents relocate, they shall inform the agency which has conducted their home study and the District Child Protection Unit of the district where they relocate.
- (3) The District Child Protection Unit of the district of the current residence shall prepare the post-adoption follow-up report and upload the same in Child Adoption Resource Information and Guidance System.
- (4) The Specialised Adoption Agency or the District Child Protection Unit as the case may be, shall arrange for counselling the adoptive parents and adoptee by social worker or link them to the counseling center set up at the Authority or State Agency, whenever required.
- (5) In case the child is having adjustment problem with the adoptive parents, the Specialised Adoption Agency shall arrange the required counseling for such adoptive parents and adoptees or link them to the counseling center set up at the Authority or State Agency, wherever required.
- (6) In case of disruption in in-country adoption.-
- (a) at the stage of pre-adoption foster care before filing a petition, the child shall be taken back by the Specialised Adoption Agency concerned with information to District Child Protection Unit;
- (b) at the stage of pre-adoption foster-care after the petition has been filed in the court, the child shall be taken back by the Specialised Adoption Agency and adoption application shall be withdrawn from the court concerned with intimation to District Child Protection Unit;
- (c) where the child has been taken to another State during the adoption process, the repatriation of the child shall be coordinated by State Adoption Resource Agency in the State where the child is residing and the State of origin.
- (7) In case of dissolution, the application for annulment of adoption order shall be filed in the court which issued the adoption order.
- (8) After disruption or dissolution of adoption, as the case may be, the status of the child shall be updated as legally free for adoption in Child Adoption Resource Information and Guidance System by the Specialised Adoption Agency.

#### CHAPTER IV

#### ADOPTION PROCEDURE FOR NON-RESIDENT INDIAN, OVERSEAS CITIZEN OF INDIA AND FOREIGN PROSPECTIVE ADOPTIVE PARENTS

- 14. Non-Resident Indian to be treated at par with resident Indian.-** Non-resident Indian prospective adoptive parents shall be treated at par with Indians living in India in terms of priority for adoption of Indian orphan, abandoned or surrendered children.
- 15. Registration and Home Study Report for prospective adoptive parents for inter-country adoption.-** (1) Any Non-Resident Indian, Overseas Citizen of India or foreign prospective adoptive parents, living in a country which is a signatory to the Hague Adoption Convention and wishing to adopt an Indian child, can approach the Authorised Foreign Adoption Agency or the Central Authority concerned, as the case may be, for preparation of their Home Study Report and for their registration in Child Adoption Resource Information and Guidance System.
- (2) In case, there is no Authorised Foreign Adoption Agency or Central Authority in their country of habitual residence, then the prospective adoptive parents shall approach the Government department or Indian diplomatic mission concerned in that country for the purpose.



- (3) The Authorised Foreign Adoption Agency or Central Authority or the Government department or the Indian diplomatic mission concerned, as the case may be, on ascertaining the eligibility of the prospective adoptive parents for adopting a child, shall get their Home Study Report completed and register their application in Child Adoption Resource Information and Guidance System in the format along with the required documents as specified in Schedule VI.
- (4) The seniority of the prospective adoptive parents shall be counted from the date of their registration and uploading of requisite documents in the Child Adoption Resource Information and Guidance System.
- (5) The Home Study Report and other documents of the prospective adoptive parents, referred to in this Chapter, shall be scrutinised at the Authority in order to determine their eligibility and suitability and be forwarded to the Specialised Adoption Agency where children legally free for adoption are available.
- (6) The profiles of two children, in one or two referral(s), shall be forwarded by Child Adoption Resource Information and Guidance System to the Authorised Foreign Adoption Agency or Central Authority or Government department or Indian diplomatic mission, as the case may be, which may further forward such profiles to the prospective adoptive parents concerned as per local rules and in case of a foreigner or Overseas Citizen of India, the profiles of children shall be referred to the prospective adoptive parents.
- (7) The prospective adoptive parents may reserve one of the referred children within ninety-six hours and the profile of the other child shall stand automatically withdrawn.
- (8) In case the prospective adoptive parents fail to reserve any of the children within ninety-six hours, then the profiles of both the children shall stand automatically withdrawn.
- (9) Preference of the prospective adoptive parents shall be taken into consideration when sending referrals to them.
- (10) If the prospective adoptive parents reserve one of the children shown, they shall accept the child by signing the Child Study Report and Medical Examination Report of the child within thirty days from the date of reservation.
- (11) The Child Study Report, Medical Examination Report and photograph of the child, in original, shall be sent by the Specialised Adoption Agency to the Authorised Foreign Adoption Agency or Central Authority or the Indian diplomatic mission concerned.
- (12) In case the prospective adoptive parents fail to accept the reserved child within thirty days, then the profile of the child shall stand withdrawn by the Child Adoption Resource Information and Guidance System and the seniority of the prospective adoptive parents shall be relegated to the bottom of the list; and shall be given another opportunity to reserve and accept a child when their turn becomes due, provided that their Home Study Report remains valid.
- (13) If the prospective adoptive parents desire to visit the Specialised Adoption Agency to see the child in person, before accepting him for adoption, such visit may be made after their adoption application is approved by the Authority and the prospective adoptive parents may also get the Medical Examination Report of the child reviewed by a medical practitioner of their choice.
- (14) The Authorised Foreign Adoption Agency shall forward the original documents of the prospective adoptive parents, as specified in Schedule IX, to the Specialised Adoption Agency concerned for their scrutiny.
- (15) All documents forming part of the Home Study Report shall be notarised and the signature of the notary is to be apostilled by competent authority of the receiving country in cases of Hague Adoption Convention ratified countries, however the documents originating from India shall be self-attested.
- (16) If the documents are in any language other than English, then the originals must be accompanied by translations in English, duly attested by the agency or authority in the country of residence of the prospective adoptive parents designated for the purpose of attestation or apostille.
- 16. No Objection Certificate of Authority and pre-adoption foster care.-(1)** The Authority shall issue No Objection Certificate in favour of the proposed adoption in the format at Schedule X, within ten days from the date of receipt of the acceptance of the child by the prospective adoptive parents and letter of approval or permission of the receiving country as per Article 5 and Article 17 of the Hague Adoption Convention, wherever applicable; and a copy of the No Objection Certificate shall also be endorsed to all concerned and posted in Child Adoption Resource Information and Guidance System forthwith.
- (2) The prospective adoptive parents may take the child in pre-adoption foster care for a temporary period within India after issuance of No Objection Certificate by the Authority while the court order is pending, by furnishing an undertaking to the Specialised Adoption Agency in the format at Schedule VIII.
- (3) The prospective adoptive parents shall receive final custody of the child from the Specialised Adoption Agency as soon as the passport and visa are issued to the child after issue of adoption order from the competent court.
- 17. Legal Procedure.-(1)** The legal procedure as provided in regulation 12 shall, *mutatis mutandis* be followed in cases of inter-country adoption under this Chapter.

- (2) In cases of the prospective adoptive parents habitually residing abroad and wanting the Specialised Adoption Agency to represent on their behalf as well, the application shall also be accompanied by a Power of Attorney in favour of the social worker or adoption in-charge of the Specialised Adoption Agency which is processing the case and such Power of Attorney shall authorise a social worker to handle the case on behalf of the prospective adoptive parents.
- 18. Passport and visa, intimation to immigration authorities, Conformity Certificate, Birth Certificate, etc.-**
- (1) The Authority shall issue a Conformity Certificate under Article 23 of the Hague Adoption Convention in the format provided in Schedule XI within three working days from the date of availability of the adoption order in the Child Adoption Resource Information and Guidance System, in case the receiving country of the adopted child is a signatory to the Hague Adoption Convention.
- (2) The Authority shall inform the immigration authorities and the foreign regional registration office or the foreign registration office concerned, as the case may be, about confirmation of the adoption.
- (3) To obtain Indian passport for the adopted child, the Specialised Adoption Agency shall submit the application to the regional passport officer within three working days from the date of receipt of the adoption order.
- (4) The regional passport office shall issue passport for the adopted child within ten days from the date of receipt of application, in accordance with the circulars regarding issuance of passport to inter-country adopted children, issued by the Ministry of External Affairs of the Central Government from time to time.
- (5) The Specialised Adoption Agency shall approach the birth certificate issuing authority for obtaining birth certificate of the adopted child, with the name of adoptive parents, as parents, and date of birth as recorded in the adoption order within a period of three days of obtaining of the certified copy of the adoption order.
- (6) The adopted child shall be entitled to receive Overseas Citizen of India card, if found eligible.
- (7) The adoptive parent(s) shall come to India for taking the adopted child to their country within a period of two months from the date of adoption order.
- 19. Follow-up of progress of adopted child by Non-Resident Indian, Overseas Citizens of India and foreign prospective adoptive parents.-**
- (1) The Authorised Foreign Adoption Agency or the Central Authority or Indian diplomatic mission or Government department concerned, as the case may be, shall report the progress of the adopted child for two years from the date of arrival of the adopted child in the receiving country, on a quarterly basis during the first year and on six monthly basis in the second year, by uploading online in the Child Adoption Resource Information and Guidance System in the format provided in Schedule XII along with photographs of the child.
- (2) On the basis of the progress report or in course of post-adoption home visits, if an adjustment problem of an adoptee with the adoptive parents comes to the notice of the Authorised Foreign Adoption Agency or Central Authority or the Government department concerned in the receiving country, necessary counseling shall be arranged for the adoptive parents and for the adoptee, wherever applicable.
- (3) If it is found that the adoptee is unable to adjust in the adoptive family or that the continuance of the child in the adoptive family is not in the interest of the child, the Authorised Foreign Adoption Agency or Central Authority or the Government department in the receiving country or Indian diplomatic mission concerned, as the case may be, shall withdraw the child and provide necessary counseling and shall arrange for suitable alternate adoption or foster placement of the child in that country, in consultation with the Indian diplomatic mission and the Authority.
- (4) In case of disruption or dissolution of adoption, the child shall be entitled to receive care, protection and rehabilitation through the child protection services of that country and as per Hague Adoption Convention for the Hague Adoption Convention ratified countries.
- (5) The Authorised Foreign Adoption Agency or Central Authority or Government department concerned shall contact Indian diplomatic mission to render necessary help and facilitate the repatriation of the child, if required.
- (6) The Authorised Foreign Adoption Agency or Central Authority or Government department concerned, may organise annual get-together of Indian adoptees and their adoptive parents and forward a report of the event to the Authority and the Indian diplomatic missions shall facilitate such get-togethers.
- (7) The prospective adoptive parents shall furnish an undertaking to the effect that they would allow personal visits of the representative of Authorised Foreign Adoption Agency, the foreign Central Authority or Government department concerned, as the case may be, to ascertain the progress of the child with the adoptive parents or family at least for a period of two years from the date of arrival of the child in the receiving country.

- 20. Adoption by Overseas Citizen of India or foreign national of Hague Adoption Convention ratified countries living in India.-** (1) An Overseas Citizen of India or foreign national, who is a citizen of a country that has ratified the Hague Convention and is a habitual resident, shall apply for adoption online in prescribed format as specified in Schedule VI along with the required documents specified therein by uploading in the Child Adoption Resource Information and Guidance System.
- (2) On receipt of the application, along with the required documents duly notarised, except those documents originating from India which may be self-attested, the Authority shall refer the case to a Specialised Adoption Agency for preparing the Home Study Report in the format given at Schedule VII and the Specialised Adoption Agency shall upload the Home Study Report in the Child Adoption Resource Information and Guidance System.
- (3) The prospective adoptive parents may reserve one of the referred children within forty-eight hours and the procedures shall be followed as per the provisions of sub-regulations (9), (10), (12) and (13) of regulation 15 and regulations 16 to 19.
- (4) The role of preparing Home Study Report and uploading progress report as required under these Regulations shall be done by the Specialised Adoption Agency concerned.
- (5) The Specialised Adoption Agency shall report the progress of the child on six monthly basis for a period of two years from the date of pre-adoption foster care by uploading the details in the Child Adoption Resource Information and Guidance System as per the format provided at Schedule XII along with photographs of the child.
- (6) If any adjustment problem of the adoptee with the adoptive parents comes to the notice of the Specialised Adoption Agency through the progress report or in the course of post-adoption home visits, counselling shall be arranged for the adoptive parents and the adoptee, wherever applicable.
- (7) During the follow-up, if the Specialised Adoption Agency finds that the adoptee is unable to adjust in the adoptive family or the continuance of the adoptee in the adoptive family is not in the best interests of the child, the procedure as provided in sub-regulations (5), (6) and (7) of regulation 13 shall be followed.
- (8) The diplomatic mission concerned shall also ensure that the adopted child acquires citizenship of the country of his parents immediately after adoption decree and a copy of the passport of the child from the country of the nationality of the prospective adoptive parents shall be forwarded to the Authority and the Specialised Adoption Agency concerned.
- (9) An Overseas Citizen of India or foreign prospective adoptive parents living in India, are required to give an affidavit to the effect that they would allow personal visits of the representative by the Specialised Adoption Agency or District Child Protection Unit or State Adoption Resource Agency, as the case may be, for a period of at least two years from the date of adoption.
- (10) An Overseas Citizen of India or foreign prospective adoptive parents living in India, as the case may be, shall give an undertaking to the effect that if they move out of India before completion of two years after adoption, they shall inform to the Authority about their movement, furnish their new address, and continue to send their post-adoption progress report to the Authority for the remaining period.
- 21. Adoption procedure in case of Overseas Citizen of India or foreign national of Hague Adoption Convention ratified countries living in India.-** (1) If one of the prospective adoptive parents is foreigner and other is an Indian, such case shall be treated at par with Indians living in India.
- (2) If both the prospective adoptive parents are foreigner, such case shall be treated in accordance with the provisions of regulation 20.
- 22. Procedure for adoption of a child from a foreign country by Indian citizens.-** (1) Necessary formalities for adoption of a child from a foreign country by Indian citizens shall initially be completed in that country as per their law and procedure.
- (2) On receiving Home Study Report of the prospective adoptive parents (including supporting documents), Child Study Report and Medical Examination Report of the child, the Authority shall issue the approval, as required in the cases of adoption of children coming to India as a receiving country under Articles 5 and 17 of the Hague Adoption Convention.
- (3) A child adopted abroad by the Indian citizens, having a foreign passport, and requiring the Indian visa to come to India, shall apply for visa to the Indian mission in the country concerned, who may issue entry visa to the child after checking all the relevant documents so as to ensure that the adoption has been done following the due procedure.
- (4) The immigration clearance for the child adopted abroad shall be obtained from the Central Government in the Foreigners' Division, Ministry of Home Affairs, through the Indian diplomatic mission to that country.

## CHAPTER V

## RECOGNITION, INSPECTION AND FUNCTION OF ADOPTION AGENCIES

- 23. Recognition of Specialised Adoption Agency.-** (1) Any Child Care Institution, intending to be recognised as Specialised Adoption Agency to place children in in-country and inter-country adoption, shall submit application as per Schedule XXVI, along with the following documents to the State Government concerned, namely:-
- a copy of the registration certificate under the Societies Registration Act, 1860 (21 of 1860), the Indian Trusts Act, 1882 (2 of 1882) or any other corresponding law for the time being in force;
  - a copy of its Memorandum of Association, rules, regulations and bye-laws;
  - a copy of the registration certificate as Child Care Institution;
  - a list of management committee or executive committee or board members showing that the majority of the members of such committee or board are Indian citizens;
  - annual reports including audited accounts for the last three years;
  - resolution by the agency supporting the decision for placing orphan, abandoned or surrendered children in adoption;
  - undertaking of the chief functionary of the Child Care Institution in its letter head to abide by the relevant rules in force in respective States and these Regulations;
  - undertaking of the chief functionary of the Child Care Institution in its letter head to regularly update data on Child Adoption Resource Information and Guidance System and to have necessary facilities for the same;
  - supporting documents indicating that the organisation has been engaged in child protection and welfare activities;
  - list of children in the institution; and
  - list of professional and child care staff.
- (2) The State Government shall issue a certificate of recognition to a Child Care Institution as a Specialised Adoption Agency within three months from the date of application, if the Child Care Institution is found fit to be considered as a Specialised Adoption Agency, based upon inspection conducted for the purpose.
- (3) If an organisation is not involved in institutional care but has the capacity and expertise to ensure quality non-institutional care for infants and young children through trained foster care givers on their panel, the State Government may also recognise such organisation as a Specialised Adoption Agency.
- (4) The recognition to a Specialised Adoption Agency to place children both in in-country and inter-country adoption shall be for a period of five years, unless it is revoked earlier on the grounds as mentioned in regulation 25.
- 24. Criteria and procedure for renewal of recognition of Specialised Adoption Agency.-** (1) The State Government shall take into consideration the following factors before renewal of recognition of a Specialised Adoption Agency, namely:-
- whether the Specialised Adoption Agency has satisfactorily performed in adoption placement;
  - whether it has regularly updated data on Child Adoption Resource Information and Guidance System and meeting the timelines specified for Specialised Adoption Agency in these Regulations;
  - whether it has followed the provisions of these regulations as also instructions issued by the State Government, State Adoption Resource Agency and the Authority in handling matters related to adoption;
  - whether it indulged in any malpractice;
  - whether it made proper utilisation of the adoption fee; and
  - whether it maintains the standards of child care as provided in Schedule XIII.
- (2) The Specialised Adoption Agency shall apply six months before the expiry of its recognition for renewal with the following documents and information, namely:-
- number of children restored to biological parents, relatives or guardians during the period of last recognition with details;
  - number and details of children placed in in-country and inter-country adoption and details of post-adoption follow-up thereof during the period of last recognition;
  - details of year wise receipt of adoption fee and its utilisation during the period of last recognition;

- (d) an affidavit declaring that it has been regularly updating the data on Child Adoption Resource Information and Guidance System; and
  - (e) an affidavit stating that it agrees to abide by these regulations as also the instructions issued by the State Government or State Adoption Resource Agency or the Authority from time to time.
- (3) The recognition to a Specialised Adoption Agency shall be renewed by the State Government before the expiry of existing recognition, for a period of five years, if the Specialised Adoption Agency is found fulfilling the eligibility factors specified in sub-regulation (1) and furnishing the documents and information specified in sub-regulation (2), and on the basis of inspection conducted for the purpose.
- (4) In case the Specialised Adoption Agency has applied for recognition or renewal with the State Government and the provisional registration certificate has not been issued by the State Government within one month from the date of application, the proof of receipt of application for registration shall be treated as provisional recognition to run the agency for a maximum period of six months.
- (5) In case the renewal of recognition of a Specialised Adoption Agency is pending, all the pending adoption cases shall be allowed to proceed subject to all other provisions of these regulations being fulfilled.
- 25. Suspension or revocation of recognition of Specialised Adoption Agency.-** (1) The State Government, shall act upon, *suo-motu* or on the recommendation of State Adoption Resource Agency or the Authority, either suspend or revoke the recognition granted to a Specialised Adoption Agency on any of the grounds specified in sub-regulation (2).
- (2) The recognition of a Specialised Adoption Agency may be suspended on any one or more of the following grounds, namely:-
- (a) violation of any of the provisions of these Act or the rules made thereunder, relating to adoption as well as these regulations;
  - (b) furnishing false information or forged documents to State Adoption Resource Agency or the State Government or the Authority or in Child Adoption Resource Information and Guidance System;
  - (c) incomplete or false information to prospective adoptive parents, Child Welfare Committee or District Child Protection Unit about the child or any adoption related process;
  - (d) failure to update data online in the Child Adoption Resource Information and Guidance System;
  - (e) failure to submit reports or data within the time limits specified in these regulations;
  - (f) adverse findings of the inspection team of the Central Government, the Authority, State Government or State Adoption Resource Agency concerned, regarding the functioning of the Specialised Adoption Agency;
  - (g) if professional social worker and qualified child care staff are not employed;
  - (h) financial irregularities or malpractices or receiving any donation whether in kind or cash from prospective adoptive parents or adoptive parents;
  - (i) misuse or diversion of adoption fee or grant received from the Government for the purposes other than the purposes for which they were received;
  - (j) unethical practices which may also include inducing single mothers or biological parents to relinquish their child or illegally sourcing the child;
  - (k) divulging information of biological mother or parents or adoptee to public in violation of the principles of confidentiality;
  - (l) non-compliance of instructions issued from time to time by the Authority, State Government concerned or the State Adoption Resource Agency; and
  - (m) abuse or neglect of children in the Specialised Adoption Agency.
- (3) No order for suspension or revocation of authorisation shall be passed without giving an opportunity to the agency to offer its explanation.
- (4) After suspension of recognition of a Specialised Adoption Agency, the State Government or the State Adoption Resource Agency concerned shall conduct necessary enquiries within a maximum period of six months, and if charges are proven, the State Government concerned shall revoke the recognition of the Specialised Adoption Agency.
- (5) In case of revocation of recognition of a Specialised Adoption Agency, the State Government concerned shall prepare an alternate rehabilitation plan for the children in that home, including shifting them to another Specialised Adoption Agency, within thirty days.



- (6) In the event of suspension or revocation of recognition of the Specialised Adoption Agency, the cases where referrals have been accepted by the prospective adoptive parents shall be allowed to proceed for final adoption, subject to all other provisions of these regulations being fulfilled.
- 26. Inspection of Specialised Adoption Agencies.-** (1) The State Government concerned shall inspect the Child Care Institution before considering its recognition or renewal as a Specialised Adoption Agency.
- (2) The State Government or State Adoption Resource Agency concerned shall conduct annual inspections of Specialised Adoption Agencies to ensure that they are performing efficiently and as per norms laid down in these regulations and shall also take necessary remedial measures, wherever required.
- (3) The premises of Specialised Adoption Agency including the places where the children are staying and its relevant records shall be open to inspection by the Central Government, the Authority, the State Government, State Adoption Resource Agency, Child Welfare Committee concerned and any other agency or person authorised by respective State Government and the format for inspection shall be as provided in Schedule XXV.
- (4) Whenever inspection is conducted in a Specialised Adoption Agency, the following shall be scrutinised or examined, namely:-
- that the agency is discharging its role and performing its functions efficiently in accordance with the provisions of these regulations;
  - that adoption, is being pursued by the organisation as a welfare activity in the interest of children, and not as a commercial activity;
  - total number and details of children actually placed in in-country and inter-country adoption;
  - records pertaining to adoptions of children, starting from their admission up to the legal adoption decree and follow-up progress as well as the related registers;
  - whether expeditious and sufficient efforts have been made by the Specialised Adoption Agency to place children in adoption;
  - whether the agency has submitted annual reports, audited statements of accounts and monthly reports including the adoption data to the State Government or State Adoption Resource Agency concerned and the adoption data to the Authority regularly and within the stipulated time;
  - whether the Specialised Adoption Agency is regularly updating data and reports in the Child Adoption Resource Information and Guidance System on time;
  - whether the Specialised Adoption Agency is maintaining and providing quality child care facilities in the institution as provided under these regulations and the minimum standards of child care shall be as specified in Schedule XIII;
  - financial records including receipt of fees paid by the prospective adoptive parents and utilisation of the adoption fee; and
  - whether there is any instance of malpractice against the Specialised Adoption Agency.
- 27. Entitlement to grants under other Government notified schemes.-** A Specialised Adoption Agency is entitled to receive grants-in-aid under other Government notified schemes, subject to the fulfillment of terms and conditions under such scheme.
- 28. Agencies to maintain accounts.-** (1) The Specialised Adoption Agency shall utilise funds received as adoption fee in accordance with norms as may be prescribed by the Authority from time to time.
- (2) The Specialised Adoption Agency shall maintain proper accounts including utilisation of adoption fee and Government grant under other Government notified schemes to be audited by a chartered accountant every year.
- (3) An attested copy of the audited accounts of the organization alongwith its audit report, a copy of the annual report and report in accordance with the provisions of the Foreign Contribution (Regulation) Act (49 of 1976) shall be furnished by every Specialised Adoption Agency within six months from the date of closing of the financial year to State Adoption Resource Agency or the State Government concerned.
- 29. Functions of Specialised Adoption Agencies.-** The Specialised Adoption Agency shall perform the following functions, in addition to those assigned to them under these regulations, to facilitate placement of orphan, abandoned and surrendered children in adoption, namely:-
- (1) Function towards children: Every Specialised Adoption Agency shall:-
- be responsible for the care, protection and well-being of every child in its charge and shall cater to their health needs; emotional and psychological needs; educational and training needs; leisure and recreational activities; protection from any kind of abuse, neglect and exploitation; social mainstreaming and restoration or as the case may be and follow-up;



- (b) report all cases of admissions, restorations, transfers, death and adoption of children, as well as about children missing from the institution, if any to the Child Welfare Committee, District Child Protection Unit, State Adoption Resource Agency and the Authority through Child Adoption Resource Information and Guidance System, designated portal for missing child and police;
  - (c) submit the status of every orphan, abandoned and surrendered child on the Child Adoption Resource Information and Guidance System, which is accessible on the website [www.cara.nic.in](http://www.cara.nic.in);
  - (d) shall upload the certificate, issued by the Child Welfare Committee, declaring the child legally free for adoption in Child Adoption Resource Information and Guidance System within forty-eight hours from the receipt of such certificate;
  - (e) prepare the Child Study Report of all orphan, abandoned and surrendered children, through its social worker, and upload them in Child Adoption Resource Information and Guidance System, within seven days from the date such children are declared legally free for adoption by the Child Welfare Committee;
  - (f) arrange medical tests, as provided in Schedule IV, for all children admitted into its home and prepare the Medical Examination Report through its pediatrician or doctor for uploading the same in Child Adoption Resource Information and Guidance System, within seven days from the date such children are declared legally free for adoption by the Child Welfare Committee;
  - (g) prepare individual care plan for each child following the principle of the best interests of the child and the care options in the following order of preferences:-
    - (i) restoration to the biological family or legal guardian;
    - (ii) in-country adoption;
    - (iii) inter-country adoption;
    - (iv) foster care; and
    - (v) institutional care;
  - (h) create a memory album, which shall include a photo album of the child, history and details of the child's life (details of surrendering parents not to be mentioned), and interests of the child, which shall be handed over to the adoptive family along with the medical history of the child at the time of handing over the child to the prospective adoptive parents in pre-adoption foster care;
  - (i) make efforts to place each child in adoption, who has been declared legally free for adoption by Child Welfare Committee;
  - (j) be responsible to complete referral process of a child to prospective adoptive parents and the legal procedure related to adoption as provided in these regulations;
  - (k) prepare every adoptable child psychologically for his assimilation with the adoptive family, wherever required;
  - (l) facilitate interaction of the child with prospective adoptive parents, wherever required;
  - (m) ensure that siblings and twins are placed in the same family, as far as possible;
  - (n) preserve adoption records in a manner, that such record is accessible to authorised persons only;
  - (o) facilitate root search by adoptees in the manner as mentioned in regulation 44.
- (2) Functions towards biological parents: Every Specialised Adoption Agency shall:-
- (a) treat biological parents of a surrendered child with respect and dignity throughout the surrender process;
  - (b) maintain confidentiality of unmarried mother and biological parents;
  - (c) counsel the surrendering parents and inform them about a possible root search, in future by their child;
  - (d) encourage the biological parents surrendering a child to provide maximum information about the background and development of the child as well as their own health;
  - (e) explain to the parents implication of surrendering their child including possibility of inter-country adoption;
  - (f) ensure that the consent for surrender and adoption is given by the parents without any coercion or monetary or material consideration;
  - (g) have no commitment or agreement with biological parents regarding adoption of a child prior to his birth;
  - (h) inform the parents that they would have a re-consideration period of sixty days from the date of surrender during which they may take back the child.

- (3) Functions towards prospective adoptive parents: Every Specialised Adoption Agency shall:-
- treat prospective adoptive parents with respect and extend due courtesy, assistance and advice;
  - facilitate registration of prospective adoptive parents in Child Adoption Resource Information and Guidance System in case they face any difficulty;
  - counsel the prospective adoptive parents, through an authorised professional social worker or counsellor, to make them aware of the process of adoption and to ascertain the level of their preparedness for the same which include the following, namely:-
    - acceptance of adoption as an alternative way of building their family;
    - preference for child to be adopted;
    - emotional readiness to adopt an unrelated child;
    - concerns about the social background of the child and genetic factors;
    - attitude towards parenting and disciplining;
    - sharing the fact of adoption with the child, when the child grows up;
    - dealing with root search by the adopted child, when the child grows up;
    - any other issue that might emerge during the interactions;
  - complete the Home Study Report of prospective adoptive parents who have opted for the home study by them, within one month from the date of their registration and submission of required documents;
  - continuously update the prospective adoptive parents of the current status and procedure to be followed during the entire adoption process after the child has been reserved by the prospective adoptive parents;
  - provide video clips of the children to prospective adoptive parents and facilitate their video calls to children after referral;
  - provide information to prospective adoptive parents about the medical history of the child and the health status of a special need child, if such a child is proposed for adoption;
  - provide the immunisation record and recent diagnostic reports as well as any vital information relating to child including his food and social habits and memory album to the prospective adoptive parents;
  - a copy of the adoption order from the court and the birth certificate or affidavit shall also be provided to the prospective adoptive parents as and when available;
  - place a child in pre-adoption foster care on completion of referral and after observing necessary procedural formalities as laid down in these regulations;
  - extend post adoption services including counselling to the prospective adoptive parents, if required;
  - not receive any payment, other than as specified in the norms prescribed by the Authority from time to time;
  - advise the prospective adoptive parents to contact adoptive families to understand the process of adoption.
- (4) Functions relating to counseling: The functions of the Specialised Adoption Agency in respect of counselling shall include the following, namely:-
- counselling of biological parents in case of surrender;
  - pre-adoption counselling of prospective adoptive parents during preparation of Home Study Report and matching process and linking them to the counseling center at the Authority or State Adoption Resource Agency or District Child Protection Unit, wherever required;
  - counselling of older children before and during adoption;
  - counselling of adoptive parents whenever required; and
  - post-adoption counselling of the adoptees, when contacted by them in search of their roots.
- (5) Every Specialised Adoption Agency shall set up at its own home to receive abandoned children and may set up cradle baby points at primary health care centers, hospitals, nursing homes, short-stay and Swadhar Homes for Women.
- (6) Documentation and record keeping:
- The Child Adoption Resource Information and Guidance System web portal of the Authority shall be the database and registration system which shall be mandatorily used by all State Adoption Resource Authorities, District Child Protection Units, Specialised Adoption Agencies and Child Care Institutions for the purpose of adoption.

- (b) Every Specialised Adoption Agency shall prepare an individual care plan for each child, based on age and gender specific needs in respect of the following, namely:-
- (i) health and medical needs;
  - (ii) emotional and psychological needs;
  - (iii) educational and training needs;
  - (iv) leisure, creativity and play;
  - (v) attachments and relationships;
  - (vi) protection from all forms of abuse, neglect and maltreatment;
  - (vii) rehabilitation including reunion with family, adoption and other non-institutional care;
  - (viii) social mainstreaming; and
  - (ix) follow-up after rehabilitation or restoration.
- (c) Every Specialised Adoption Agency shall keep the following documents in the case file of each child, namely:-
- (i) case history and social investigation report of the child;
  - (ii) interim care order as well as the order declaring the child legally free for adoption by the Child Welfare Committee and the Deed of Surrender in case of a relinquished child;
  - (iii) Child Study Report, Medical Examination Report and immunization record of the child;
  - (iv) photographs of the child taken at intervals of every six months;
  - (v) application form, documents and Home Study Report of the prospective adoptive parents;
  - (vi) adoption petition, adoption order and birth certificate of the child;
  - (vii) post-placement progress reports of the child.
- (d) Every Specialised Adoption Agency shall maintain the following records namely:-
- (i) master admission register;
  - (ii) medical and development file of the child;
  - (iii) case file of the child;
  - (iv) attendance register of the children and staff;
  - (v) register of adopted children with details of adoptive parents (date of registration, date of Home Study Report, date(s) of referral of child or children, date of court order, date of handing over of the child to prospective adoptive parents, etc.);
  - (vi) vouchers, cashbook, ledger, journal and annual accounts;
  - (vii) grant and adoption fees receipt and utilization register;
  - (viii) stock register; and
  - (ix) record of minutes of meetings of the management committee and Adoption Committee (to be maintained separately).
- (7) Other functions: Every Specialised Adoption Agency shall also:-
- (a) organise training and orientation activities to spread awareness about adoption programme;
  - (b) train its childcare and professional staff about the procedures provided in the provision of these Regulations; and
  - (c) ensure that each case of inter-country adoption of prospective adoptive parents is disposed of within four months from the date of receipt of application with the assistance of Authorised Foreign Adoption Agency, Authority and State Agency as provided in sub-section (2) of section 62 of the Act.
- 30. Functions of Authorised Foreign Adoption Agency.-** The Authorised Foreign Adoption Agency shall perform the following functions, namely:-
- (1) register the prospective adoptive parents interested to adopt children from India and to complete their Home Study Report expeditiously;

- (2) upload attested copies of the adoption application of the prospective adoptive parents in the Child Adoption Resource Information and Guidance System and forward the original of the same to the allotted Specialised Adoption Agency;
  - (3) follow-up with Specialised Adoption Agency for ensuring early adoption after receipt of No Objection Certificate for the adoption from the Authority;
  - (4) give orientation to the prospective adoptive parents on culture, language and food of the place to which the adopted child belongs;
  - (5) ensure the submission of post-adoption follow-up of the progress of adopted children and to address the cases of disruption, as specified in regulation 19;
  - (6) arrange get-togethers of children of Indian origin and their adoptive families from time to time with the involvement of the Indian diplomatic mission concerned;
  - (7) facilitate root search by older adoptees; and
  - (8) fulfill the legal requirements of the host country as well as the terms and conditions of the authorisation given by the Authority.
- 31. Criteria and procedure for authorisation of foreign agencies.-** (1) A foreign adoption agency desirous of sponsoring applications of foreign adoptive parents for adopting an Indian child shall make an application to the Authority along with the recommendation of the Central Authority or Government department concerned of that country, through the Indian diplomatic mission.
- (2) The authorisation to foreign adoption agency may be given by the Authority for a maximum period of five years and the documents required to be attached with the application shall be as under:-
- (a) memorandum or bye-laws, copies of registration status, latest license issued by the Government department concerned to undertake international adoptions, list of board or executive members, list of countries it is working with, accreditation certificate and its annual reports or financial statements for last two years;
  - (b) an undertaking signed by the head or chief executive of the organisation stating that the agency will abide by the provisions of these regulations;
  - (c) an undertaking by the agency that in case of disruption or repatriation of the adopted children, it shall abide by the specific provisions laid down in these regulations;
  - (d) an undertaking by the agency to send an annual report to the Authority in the month of April every year on the status of children placed in adoption from India;
  - (e) copy of adoption law or adoption regulations or adoption rules of their country;
  - (f) a list of staff of the agency, recommendation or authorisation from the Central Authority or competent authority to work with India;
  - (g) recommendation letter from Indian diplomatic mission abroad and the Central Authority or Government department of the receiving country.
- (3) The Authorised Foreign Adoption Agency is required to apply for renewal of its authorisation, ninety days prior to expiry of its authorisation, as per the procedure given at sub-regulations (1) and (2) alongwith the following details, namely:-
- (a) list of children placed in adoption through the Authorised Foreign Adoption Agency alongwith their citizenship status; and
  - (b) disruption, if any.
- (4) In case an Authorised Foreign Adoption Agency requires to appoint a representative in India for facilitating its adoption cases, it shall obtain prior approval of the Authority.
- 32. Suspension or revocation of authorisation.-** The grounds of suspension or revocation of the authorisation of an Authorised Foreign Adoption Agency shall be as follows:-
- (1) if the agency violates or fails to abide by the provisions of these regulations;
  - (2) if the license or recognition or accreditation of the agency is suspended or revoked by the appropriate authority of that country;
  - (3) if the agency fails to upload adoption applications or the post-adoption follow-up reports in the Child Adoption Resource Information and Guidance System from time to time.

## CHAPTER VI

## FUNCTIONS OF GOVERNMENT ORGANISATIONS AND AUTHORITY

## 33. Roles of State Government and State Adoption Resource Agency.-

(1) **Structure of State Adoption Resource Agency:**

- (a) The State Government shall set up a State Adoption Resource Agency for dealing with adoptions and related matters in the State under the guidance of Authority, as per the provisions of section 67 of the Act.
- (b) The existing State Adoption Resource Agencies shall be deemed to be set up under the Act.
- (c) The State Adoption Resource Agency shall be headed by Principal Secretary or Secretary of the department of the State Government dealing with adoption and the Governing Body of the agency shall have following members:-
  - (i) Director of the department of the State Government dealing with adoption who shall be the Member Secretary;
  - (ii) Director of the Department of Health or Hospital Administration of the State Government;
  - (iii) Chairperson of a Child Welfare Committee;
  - (iv) representative of a Specialised Adoption Agency;
  - (v) one member from the civil society involved in child welfare and protection for at least ten years;
  - (vi) one member from the State Legal Services Authority.
- (d) The Governing Body shall meet as frequently as required and at least once in every quarter to review the progress of adoption work and to address the operational as well as logistic issues and bottlenecks in the adoption process or system in the State.
- (e) The authorities dealing with issuance of birth certificate, passport and other related matters may be invited as special invitees to attend the meetings of the State Adoption Resource Agency.
- (f) The State Government shall provide adequate staff, infrastructure and communication facilities to State Adoption Resource Agency for efficient performance of its functions.

(2) **Functions of State Adoption Resource Agency:** The State Adoption Resource Agency shall function as the executive arm of the State Government for promotion, facilitation, monitoring and regulation of the adoption programme in the State, and its functions shall include to:-

- (a) recommend for recognition to one or more of the Child Care Institutions as Specialised Adoption Agencies in each district;
- (b) publish the contact details of Specialised Adoption Agency in the State at least once in a year;
- (c) recommend renewal of recognition to Specialised Adoption Agency every five years subject to satisfactory performance;
- (d) conduct meetings of Specialised Adoption Agencies on quarterly basis for addressing issues related to adoption and uploading the minutes of such meetings in the Child Adoption Resource Information and Guidance System;
- (e) inspect and monitor adoption programme and activities of all Specialised Adoption Agencies within its jurisdiction;
- (f) identify Child Care Institutions which are not recognised as Specialised Adoption Agencies and link them to Specialised Adoption Agencies for enabling and facilitating adoption of eligible children in such institutions, in pursuance of the provisions under section 66 of the Act;
- (g) enforce standards and measures for the adoption of orphan, abandoned and surrendered children, as envisaged under the Act or the rules made thereunder and these regulations;
- (h) identify Specialised Adoption Agencies or Child Care Institutions which have the capacity to provide quality care and treatment on a long term basis to special need children including children affected or infected by HIV/AIDS and mentally or physically challenged children, and facilitate transfer of such children to these agencies;
- (i) expedite de-institutionalisation of children through adoption and other non-institutional alternatives;
- (j) take measures that are required for expansion of the adoption programme in the State, such as, strengthening the knowledge base, research and documentation, strengthening child tracking system,

training and capacity building activities, publicity and awareness activities, advocacy and communication, monitoring and evaluation;

- (k) validate the data furnished online in the Child Adoption Resource Information and Guidance System by the Child Welfare Committees in the State, in pursuance of the provisions of sub section (5) of section 38 of the Act;
  - (l) ensure furnishing of correct adoption data and documents in the Child Adoption Resource Information and Guidance System by the Specialised Adoption Agency, in the format and periodicity as specified in these regulations and validating the same;
  - (m) furnish or update in the Child Adoption Resource Information and Guidance System, the profile of the Specialised Adoption Agency as required under sub section (2) of section 65 of the Act;
  - (n) update the contact details of the District Child Protection Units, Child Welfare Committees and State Adoption Resource Agency online in the Child Adoption Resource Information and Guidance System on regular basis;
  - (o) maintain a State-specific database in Child Adoption Resource Information and Guidance System of adoptable children, prospective adoptive parents, children given in in-country and inter-country adoptions;
  - (p) ensure that all adoption placements in the State are done in accordance with the relevant provisions of the Act, rules made there under and these regulations;
  - (q) maintain a panel of professionally qualified or trained social workers and set up a counselling centre with the support of Authority at State-level to assist District Child Protection Unit, Specialised Adoption Agency or Child Care Institution, wherever required, for:-
    - (i) counselling and preparation of the Home Study Report of the prospective adoptive parents;
    - (ii) preparation of the Child Study Report and counselling of older children, wherever required;
    - (iii) preparing post-adoption follow-up report, wherever required;
    - (iv) preparing family background report in cases of inter-country relative adoptions;
    - (v) post adoption counselling to adopted children and adoptive parents;
    - (vi) assisting and counselling older adoptees in root search.
  - (r) carry out such other functions as assigned by the Authority from time to time.
- (3) The State Government shall take appropriate action on the receipt of a complaint or *suo-motu*, in the cases of violation of the provisions under section 32, sub-sections (1) and (5) of section 41, sub-section (4) of 65, 80 and 81 of the Act, after giving due opportunity to the defaulting agency or institution or functionary.
- 34. District Child Protection Unit.-** In addition to the functions as envisaged in the Act and rules made thereunder, as well as under other Government notified schemes, the District Child Protection Unit shall:-
- (1) identify orphan, abandoned and surrendered children in the district and get them declared legally free for adoption by Child Welfare Committee with the help of Specialised Adoption Agency or Child Care Institution, wherever required;
  - (2) ensure that the Child Study Report and Medical Examination Report are uploaded in the Child Adoption Resource Information and Guidance System by the Specialised Adoption Agency within ten days from the date a child is declared legally free for adoption;
  - (3) facilitate the linkage of Child Care Institution with Specialised Adoption Agency in the same or other districts to facilitate adoption;
  - (4) track the progress of adoption of each child declared legally free for adoption and take necessary actions for expediting the case, wherever required;
  - (5) track the progress of application of each Prospective Adoptive Parent registered in Child Adoption Resource Information and Guidance System for adopting a child or children from the district and take necessary actions for expediting the case wherever required;
  - (6) maintain a panel of professionally qualified or trained social workers and set up counseling centre with support of State Adoption Resource Agency or the Authority to assist Specialised Adoption Agency or Child Care Institution, wherever required, for:-
    - (a) counselling and preparation of the Home Study Report of the prospective adoptive parents;
    - (b) preparation of the Child Study Report and counselling of older children;
    - (c) preparing post-adoption follow-up report;



- (d) preparing family background report in cases of inter-country relative adoptions;
- (e) post adoption counselling to adopted children and adoptive parents; and
- (f) assisting and counselling of older adoptees in root search;
- (7) supervise and monitor adoption programme in the district;
- (8) ensure that data is being updated by Specialised Adoption Agency in the Child Adoption Resource Information and Guidance System on time and in correct manner;
- (9) assist State Adoption Resource Agency and the Authority in all matters related to adoption;
- (10) assist the Child Welfare Committee in the restoration effort and in completing the process for declaring the abandoned children legally free for adoption, including publishing information of the child in the newspaper, obtaining the social investigation report from the probation officer and non-traceable report from police with the help of Specialised Adoption Agency, wherever required;
- (11) upload the certificate of Child Welfare Committee declaring children legally free for adoption in Child Adoption Resource Information and Guidance System;
- (12) District Child Protection Unit shall update adoption related information on Child Adoption Resource Information and Guidance System, as specified in Schedule XVI and XVII or as given in the format online by the Authority.
- 35. Child Welfare Committee.-** The Child Welfare Committee shall take actions as provided in regulations 6 and 7.
- 36. Birth certificate issuing authority.-** The local registrar notified under the Registration of Births and Deaths Act, 1969 (18 of 1969) shall issue birth certificate within five working days in favour of an adopted child on an application filed by the Specialised Adoption Agency or adoptive parents, incorporating the names of the adoptive parents as parents and the date of birth of the child as mentioned in the adoption order of the court, in accordance with circulars issued from time to time by the Registrar General of India.
- 37. Central Adoption Resource Authority.-** The Authority shall perform the following functions, in addition to the functions specified in section 68 (1) of the Act, namely:-
  - (1) monitor and regulate the procedure for in-country adoption;
  - (2) receive applications of an Non-Resident Indian or Overseas Citizens of India or a foreigner living abroad through authorised adoption agency or Central Authority or the Government department or the Indian diplomatic mission concerned and process the same in terms of section 59 (5) of the Act;
  - (3) receive and process applications received from a foreigner or an Overseas Citizen of India residing in India for one year or more, and who is interested in adopting a child from India in terms of sub-section (12) of section 59 (12) of the Act;
  - (4) issue No Objection Certificate in all cases of inter-country adoptions;
  - (5) issue Conformity Certificate in the inter-country adoption cases under Article 23 of the Hague Adoption Convention in respect of inter-country adoption;
  - (6) intimate the immigration authorities of India and the receiving country of the child about the inter-country adoption cases;
  - (7) provide support and guidance to State Adoption Resource Agencies, District Child Protection Units, Specialised Adoption Agencies and other stakeholders of adoption in related matters, through trainings, workshops, exposure visits, consultations, conferences, seminars and other capacity building programmes;
  - (8) coordinate with State Governments or the State Adoption Resource Agencies and advise them in adoption related matters;
  - (9) establish uniform standards and indicators, relating to:-
    - (a) adoption procedure related to orphan, abandoned and surrendered children and also related to relative adoptions;
    - (b) quality child care standards in Specialised Adoption Agency and Child Care Institution;
    - (c) monitoring and supervision of service providers;
    - (d) standardization of documents in cases of adoptions; and
    - (e) safeguards and ethical practices including online applications for facilitating hassle-free adoptions;
  - (10) conduct research, documentation and publication on adoption and related matters;
  - (11) maintain a comprehensive centralised database relating to children and prospective adoptive parents for the purpose of adoption in Child Adoption Resource Information and Guidance System;

- (12) maintain a confidential centralised database relating to children placed in adoption and adoptive parents in the Child Adoption Resource Information and Guidance System;
- (13) carry out advocacy, awareness and information, education and communication activities for promoting adoption and other non-institutional child care services either by itself or through its associated bodies;
- (14) enter into bilateral agreements with foreign Central Authorities as prescribed under the Hague Adoption Convention, wherever necessary;
- (15) authorise foreign adoption agencies to sponsor applications of Non-Resident Indian (NRI) or Overseas Citizen of India or foreign prospective adoptive parents for inter-country adoption of Indian children;
- (16) set-up counselling Centre in its Head Quarters and support State Adoption Resource Agencies for setting-up of counseling centre at State and District level for:-
  - (a) counselling of the prospective adoptive parents;
  - (b) counseling of older children, wherever required;
  - (c) preparing post-adoption follow-up report, wherever required;
  - (d) post adoption counselling of adopted children and adoptive parents; and
  - (e) assisting and counselling of older adoptees in root search.
- 38. Regional passport officer.-** Based upon an application made along with required documents, pursuant to the adoption order issued by the court, the regional passport officer shall issue a passport to an adopted child within ten days from the date of receipt of such application, in accordance with circulars issued by the Central Government in the Ministry of External Affairs regarding issuance of passport to inter-country adopted children, from time to time.
- 39. Foreigner regional registration office.-** Foreigner regional registration office may exempt issue of exit visa to the adopted child travelling out of the country having No Objection Certificate and Conformity Certificate (required only in cases of Hague Adoption Convention ratified countries) from the Authority and adoption order from the competent court.
- 40. Role of Indian diplomatic missions in inter-country adoption.-** Indian diplomatic missions abroad shall have the following role in inter-country adoption of Indian children, namely:-
  - (1) liaise with Central or public authorities concerned to ensure safeguards of children of Indian origin adopted by Non-Resident Indian, Overseas Citizen of India or foreign parents against neglect, maltreatment, exploitation or abuse;
  - (2) interact with the authorised foreign adoption agencies and Central Authorities within their jurisdiction and organise or participate in the get-togethers of the adopted children and their parents;
  - (3) recommend proposals for authorisation of foreign adoption agencies for the purpose of sponsoring applications for adoption of Indian children;
  - (4) issue visa to foreign prospective adoptive parents who wish to see a child in person at a Specialised Adoption Agency in India, before accepting him for adoption, after their adoption application is approved by the Authority, and also for attending the court proceedings as well as for receiving the child thereafter;
  - (5) empanel and authorise social workers to complete adoption application formalities including Home Study Report in a foreign country, where there is no Authorised Foreign Adoption Agency or a Government department to deal with adoption;
  - (6) register the adoption applications of Non-Residence Indian Prospective Adoptive Parents or Overseas Citizen of India in Child Adoption Resource Information and Guidance System alongwith requisite documents as specified in Schedule VI and upload post-adoption follow-up reports as in regulation 19;
  - (7) the Indian diplomatic mission processing the adoption application, either directly or through the authorised organization, shall send progress report of the child on quarterly basis in the first year and on six monthly basis in the second year, from the date of arrival of the child in the receiving country and in case of disruption of adoption, shall take actions as provided in regulation 19;
  - (8) contact the Central Authority or other authorities in the receiving countries to ensure safeguards of children of Indian origin adopted by Non-Resident Indian or Overseas Citizen of India or foreign parents and in case of disruption of adoption, a report in this regard shall also be sent to the Authority at the earliest;
  - (9) render necessary help and facilitate the repatriation of the child in case required, in consultation with the local authorities, adoption agency concerned and the Authority;
  - (10) facilitate root search by an adoptee of Indian origin, if contacted; and
  - (11) communicate any report or observation, which it may consider as important and relevant in the matter of inter-country adoptions to the Authority.

## CHAPTER VII

### MISCELLANEOUS PROVISIONS

- 41. Seniority of the prospective adoptive parents.-** (1) The prospective adoptive parents shall be referred children on the basis of a single seniority list, which shall be maintained from the date of registration and other criteria as stipulated under these regulations.
- (2) The seniority of resident Indians shall be based on the date of online registration and submission of the documents, except for Home Study Report, in Child Adoption Resource Information and Guidance System.
- (3) The seniority of Non Resident Indian or Overseas Citizen of India or foreign prospective adoptive parents shall be based on the date of online registration and submission of the requisite documents alongwith Home Study Report in Child Adoption Resource Information and Guidance System.
- (4) Prospective adoptive parents shall be allowed to change the State preference once within sixty days from the date of registration and in case they change the State preference after sixty days from the date of registration, they shall be placed at the bottom of the seniority list in the changed State.
- (5) Seniority of prospective adoptive parents registered as single, but married later shall be counted from the date of registration as single after receipt of fresh Home Study Report.
- (6) Prospective adoptive parents registered for normal child, shall be able to adopt a special need child or hard to place child with the same registration.
- 42. Adoption by Indian parents residing in countries which are not signatory to Hague Adoption Convention.-**
- (1) In a situation where one of the Indian parents is residing in India and the spouse is working in a country which is not signatory to the Hague Adoption Convention on temporary work permit, the parents have to decide the place where they have to conduct their home study and for such purpose, they have to be together, either within the country or abroad.
- (2) In case Indian prospective adoptive parents desire to initiate the process in a country which is not signatory to the Hague Convention, the Indian Mission may conduct the home study and facilitate adoption process including uploading of Home Study Report and post-adoption follow-up report on Child Adoption Resource Information and Guidance System.
- (3) For adoption by prospective adoptive parents residing in a country which is not signatory to the Hague Convention, the prospective adoptive parents have to provide documents as stipulated in Schedule VI.
- 43. Adherence to time line.-** All agencies and authorities involved in the adoption process shall adhere to the time limits as specified in Schedule XIV.
- 44. Root search.-** (1) In case of an orphan or abandoned child, information about his adoption, including the source and circumstances in which the child was admitted into the Specialised Adoption Agency, as well as the process followed for his adoption, may be disclosed to the adoptee by the Specialised Adoption Agency or the Child Welfare Committee, as the case may be.
- (2) In cases of root search by older adoptees, the agencies or authorities concerned (Authorised Foreign Adoption Agency, Central Authority, Indian diplomatic mission, Authority, State Adoption Resource Agency or District Child Protection Unit or Specialised Adoption Agency), whenever contacted by any adoptee, shall facilitate his root search.
- (3) Persons above eighteen years can apply independently online while children below eighteen years shall apply jointly with their adoptive parents to the Authority seeking facilitation of root search.
- (4) If the biological parents, at the time of surrender of the child, have specifically requested anonymity, then the consent in writing of the biological parent(s) shall be taken by the Specialised Adoption Agency or Child Welfare Committee, as the case may be, before divulging information.
- (5) In case of denial by the biological parents or the parents are not traceable in surrendered cases, the reasons and the circumstances under which the information is not being made available shall be disclosed to the adoptee.
- (6) A root search by a third party shall not be permitted and the agencies or authorities concerned shall not make any information public relating to biological parents, adoptive parents or adopted child.
- (7) The right of an adopted child shall not infringe the right to privacy of the biological parents.
- 45. Confidentiality of adoption records.-** All agencies or authorities involved in the adoption process shall ensure that confidentiality of adoption records is maintained, except as permitted under any other law for the time being in force and for such purpose, the adoption court order may not be displayed in any public portal.
- 46. Adoption fees.-** (1) The prospective adoptive parents shall bear the expenses for adoption, as prescribed by the Authority from time to time.

- (2) The Specialised Adoption Agency and the Authority may receive adoption fee from the prospective adoptive parents and utilise the funds in accordance with norms prescribed by the Authority from time to time.
- (3) The Specialised Adoption Agency is not permitted to accept any donation in cash or kind, directly or indirectly, from the prospective adoptive parents for adoption of a child.
- 47. Reporting of adoptions by Specialised Adoption Agency.-** The Specialised Adoption Agency shall update data on Child Adoption Resource Information and Guidance System on weekly basis and also send quarterly report in the format given at Schedule XV to State Adoption Resource Agency in first week of every quarter, for onward submission to the Authority.
- 48. Adoption of children with special needs.-** (1) The adoption process for children with special needs shall be completed as expeditiously as possible by the agencies or authorities concerned, who shall be available for adoption by resident Indians and Non-Resident Indians from the date they are declared legally free for adoption by the Child Welfare Committee:
- Provided that such children with special need shall be available for adoption by Overseas Citizen of India or foreign adoptive parents, after fifteen days from the date they are declared legally free for adoption.*
- (2) Special care shall be taken while processing the cases for adoption of children with special needs, so that the prospective adoptive parents are aware of exact medical condition of the child and are ready to provide extra care and attention that the child needs.
- (3) The types of children with special needs are available in Schedule XVIII, which is illustrative and not exhaustive; the same may also be accessed from [www.cara.nic.in](http://www.cara.nic.in), and the decision of the Authority shall be final in this regard.
- (4) The children with special needs who were not adopted shall be provided due care and protection by the Specialised Adoption Agency and if they do not have necessary facilities and the means for their long term care, such children shall be shifted to any other specialised institutions run by any Government or non-Government organisation.
- 49. Adoption of older children and siblings.-** (1) Since it takes time for an older child to adjust with unrelated parents, it is important that the child and the prospective adoptive parents are made familiar to each other, before leaving the institution.
- (2) Under the guidance of Specialised Adoption Agency or Authorised Foreign Adoption Agency, the prospective adoptive parents may have interactions with older children through video calls or by any other means, even before taking custody and the prospective adoptive parents may be encouraged to spend some quality time with the child before leaving the institution.
- (3) The siblings and older children shall be deemed to be available for adoption by resident Indians and Non-Resident Indians (both the couple being Indian citizens) from the date they are declared legally free for adoption by the Child Welfare Committee and they shall be available for adoption by other categories of prospective adoptive parents after thirty days from the date they are declared legally free for adoption.
- Explanation:- For the purposes of this regulation, a child, who has completed five years of age, shall be considered as an older child.
- 50. Adoption of hard to place children.-** Over and above the efforts made under regulations 8, 48 and 49, the Authority with the approval of its Steering Committee, may make additional efforts for adoption of hard to place children, who are not getting any referral for long time, through Child Adoption Resource Information and Guidance System.
- 51. In-country relative adoptions.-** (1) The prospective adoptive parents shall register in Child Adoption Resource Information and Guidance System and follow due legal procedure as provided in regulation 55.
- (2) Consent of biological parents or permission of the Child Welfare Committee, as the case may be, shall be required as provided in Schedule XIX or Schedule XXII respectively.
- (3) The consent of the child shall be obtained, if he is five years of age or above.
- (4) Affidavit of adoptive parent(s) is required in cases of in-country relative adoptions in support of their financial and social status as per Schedule XXIV.
- (5) The prospective adoptive parents shall file an application in the competent court as provided in Schedule XXX.
- 52. Adoption by step-parent.-** (1) The couple (step-parent and one of the biological parents) shall register in Child Adoption Resource Information and Guidance System with the required documents as mentioned in Schedule VI.
- (2) Consent of the biological parent(s) and the step-parent adopting the child or children shall be as provided in the Schedule XX (refer instructions in Schedule XX).

- (3) In case the custody of the child is under litigation, the adoption process shall be initiated only after the finalisation of the case by the court concerned.
- (4) The biological parent and the step-parent shall file an application in the Family Court or District Court or City Civil Court as the case may be, as per format given at Schedule XXXII.
- (5) The applicants shall obtain a certified copy of the adoption order from the court concerned and furnish a copy of the same online to the Authority through Child Adoption Resource Information and Guidance System.
- 53. Inter-country relative adoptions.-** (1) A Non-Resident Indian or an Overseas Citizen of India, interested to adopt a relative's child, may approach an Authorised Foreign Adoption Agency or the Central Authority in the country of residence for preparation of their Home Study Report and for online registration in Child Adoption Resource Information and Guidance System.
- (2) In case there is no Authorised Foreign Adoption Agency or Central Authority in their country of residence, then the prospective adoptive parents interested to adopt a relative's child shall approach the Government department concerned or Indian diplomatic mission (in cases of Indian citizens) in that country.
- (3) The Authorised Foreign Adoption Agency or Central Authority or the department concerned or the Indian diplomatic mission (in cases of Indian citizens), as the case may be, on completion of the Home Study Report, shall register the application of the prospective adoptive parents in Child Adoption Resource Information and Guidance System along with the required documents as mentioned in Schedule VI.
- (4) Any person, who takes or sends a child to a foreign country or takes part in any arrangement for transferring the care and custody of a child to another person in a foreign country without a valid order from the competent Court, shall be punishable as per the provisions of section 80 of the Act.
- 54. Prior approval for inter-country relative adoption from Authority.-**
- (1) On receipt of all requisite documents on Child Adoption Resource Information and Guidance System, the Authority shall forward the same to District Child Protection Unit for obtaining family background report of the child proposed for adoption, as provided in Schedule XXI.
- (2) The District Child Protection Unit shall get the family background report conducted by its social worker and for this purpose, it can charge a fee as stipulated in the norms prescribed by the Authority from time to time.
- (3) District Child Protection Unit shall forward a copy of the family background report of the child and the biological family to the Authority for onward submission to Authorised Foreign Adoption Agency or Central Authority or Indian Mission abroad.
- (4) On receiving family background report of the relative's child, the Authority shall forward the same to the receiving country as required under Articles 15 and 16 of the Hague Adoption Convention along with a pre-approval letter supporting the proposed adoption.
- (5) The Authorised Foreign Adoption Agency or Central Authority, on receiving requisite documents as stipulated in sub regulation (3), shall arrange to forward a certificate under Article 5 or Article 17 of the Hague Adoption Convention to the Authority.
- (6) In case of countries which are not signatories to Hague Adoption Convention, in respect of Indian citizens, family background report of the relative's child and prior approval letter from the Authority shall be forwarded to the Indian Mission of that country which will issue a recommendation letter to the Authority.
- 55. Legal Procedure.-** (1) The prospective adoptive parents, who intend to adopt the child of a relative as defined in sub-section (52) of section 2 of the Act, shall file an application in the competent court under sub-section 2 of section 56 or sub section (1) of section 60 of the Act in case of in-country relative adoption or inter-country relative adoption, respectively, alongwith a consent letter of the biological parents as provided in Schedule XIX and all other documents as provided in Schedule VI.
- (2) The biological parent and the step-parent, who intend to adopt the child or children of the biological parent, shall file the adoption application as provided in Schedule XXXII, in the court concerned of the district where they reside, along with consent letter of the biological parents and the step-parent adopting the child or children, as provided in the Schedule XX and all other documents as provided in Schedule VI.
- (3) The prospective adoptive parents, in case of inter-country relative adoption, shall file the adoption application in the court concerned of the district, where the child resides with biological parents or guardians as provided in Schedule XXXI.
- (4) The prospective adoptive parents shall file an application in Family Court or District Court or City Civil Court, as the case may be.
- (5) Before issuing an adoption order, the court shall satisfy itself of the various conditions stipulated under section 61 of the Act, and regulations 51 to 56, as the case may be.



- (6) The prospective adoptive parents shall obtain a certified copy of the adoption order from the court and furnish a copy of the same to the District Child Protection Unit for online submission to the Authority.
- 56. No Objection Certificate of Authority.-** In case of all inter-country adoptions, the Authority shall issue No Objection Certificate in favour of the adoption of the child within ten days from the date of receipt of adoption order forwarded by the District Child Protection Unit and a copy of the same shall be forwarded to the Authorised Foreign Adoption Agency or Central Authority concerned.
- 57. Issue of Conformity Certificate.-** The Authority shall issue a Conformity Certificate under Article 23 of the Hague Adoption Convention in the format provided in Schedule X within three working days from the date of availability of the adoption order in the Child Adoption Resource Information and Guidance System, in case the receiving country of the adopted child is a Hague Adoption Convention signatory.
- 58. Child Care Institution and its linkage with Specialised Adoption Agency.-** (1) All Child Care Institutions registered under this Act, which may not have been recognised as Specialised Adoption Agencies, shall ensure that all orphan or abandoned or surrendered children under their care and protection are reported, produced and declared legally free for adoption, by the Child Welfare Committee as per the provisions of section 32, sub-section (2) of section 38 and sub section (1) of section 66 of the Act and the procedure laid down in these regulations.
- (2) Such report shall include the name (if known), gender, date of birth (if known) or age, photograph and health condition of the child, language spoken by the child (if any), address or source (wherever known) and the manner and circumstances in which the child was brought and admitted to the institution.
- (3) The District Child Protection Unit concerned shall render all necessary assistance to the Child Care Institution concerned in getting an orphan, abandoned or surrendered child declared legally free for adoption as per the procedure and time frame stipulated under the provisions of the Act, rules framed thereunder and these regulations.
- (4) The District Child Protection Unit shall be responsible for linking the Child Care Institution where adoptable children have been identified with Specialised Adoption Agency.
- (5) If the Child Care Institution is located in the same district:-
- (a) the Specialised Adoption Agency shall complete the documentation and formalities required for the adoption of an orphan, abandoned or surrendered child including preparation of Child Study Report and Medical Examination Report of the child as per Schedule II and III respectively; and
- (b) the Specialised Adoption Agency shall upload the profile of the child in Child Adoption Resource Information and Guidance System, which includes photograph, Child Study Report, Medical Examination Report of the child and certificate from Child Welfare Committee declaring the child legally free for adoption.
- (6) In case the Child Care Institution and the Specialised Adoption Agency are not located in the same district:-
- (a) the District Child Protection Unit shall conduct Child Study Report through a social worker and Medical Examination Report of the child as per Schedule II and III respectively;
- (b) the District Child Protection Unit shall upload the profile of the child in Child Adoption Resource Information and Guidance System, which includes photograph, Child Study Report, Medical Examination Report of the child and certificate from Child Welfare Committee declaring the child legally free for adoption; and
- (c) once documents of children are uploaded in Child Adoption Resource Information and Guidance System, the linked Specialised Adoption Agency shall access information of such children for facilitating their adoption as per the provisions of these regulations.
- (7) In case there is more than one Specialised Adoption Agency in the district for linking the Child Care Institution, the distance between the two, the needs of the child and the capacity of the Specialised Adoption Agency shall be taken into consideration.
- (8) The Adoption Committee shall include:-
- (a) adoption in-charge or social worker of the Specialised Adoption Agency;
- (b) paediatrician or visiting doctor of the Child Care Institution;
- (c) official from the District Child Protection Unit of the district where Child Care Institution is located; and
- (d) representative of the Child Care Institution.
- (9) In all such adoption cases, adoption petition shall be filed in the competent court by the Specialised Adoption Agency, making the Child Care Institution as a co-petitioner.



- (10) In case the child is from a Child Care Institution which is located in another district, the Specialised Adoption Agency shall file the adoption petition in the court concerned of either of the districts.
- (11) The adoption fee shall be shared between Specialised Adoption Agency and Child Care Institution in the ratio as may be prescribed by the Authority.
- (12) The Specialised Adoption Agency concerned shall obtain a certified copy of the adoption order from the court and furnish a copy of the same to the prospective adoptive parents, Child Care Institution, District Child Protection Unit and upload it in Child Adoption Resource Information and Guidance System.
- (13) The State Adoption Resource Agency or District Child Protection Unit shall as far as possible, provide training to Child Care Institutions to enable them to become well-equipped Specialised Adoption Agencies.
- 59. Appeal to Authority.-** (1) Any prospective adoptive parents or child or any person on his behalf, aggrieved due to non-selection for adoption because of the opinion of Specialised Adoption Agency or issues related to eligibility of the prospective adoptive parents or of the child to be adopted or regarding the documentation relating to the prospective adoptive parents or the child, such as, Home Study Report or health status of the prospective adoptive parents, the Child Study Report and Medical Examination Report, may approach the Authority.
- (2) The application referred to in sub-regulation (1) shall be made by the aggrieved within seven days from the date of opinion or decision.
- (3) The decision of the Authority shall be taken by a committee constituted by the Chairperson of its Steering Committee.
- (4) The Authority shall take decision on the application within thirty days from the date of receipt of the application and the same shall be communicated to the applicant in writing within three working days of the decision.
- (5) The decision of the Authority shall be binding on all concerned.
- (6) The Authority may decide, on the merits of each case, whether the child concerned can be blocked from further referral to any other prospective adoptive parents for adoption.
- 60. Power to relax and interpretation.-** (1) The power of relaxation and grant exception to any provision of these regulations in respect of a case or class of cases shall be vested with the Relaxation Committee of the Authority.
- (2) Relaxation Committee of the Authority shall be chaired by the chairperson of Steering Committee of the Authority and two members consisting of its Chief Executive Officer and a member of Steering Committee having experience in law as members.
- (3) No decision of the Relaxation Committee of the Authority shall ordinarily have the effect of altering the seniority of any prospective adoptive parents unless reasons are recorded in writing and the primary consideration being the best interests of the child.
- (4) In case of any ambiguity in interpretation of any of the provisions of these regulations, the decision of the Authority shall prevail.

## SCHEDULE I

[See regulations 2 (5), 6 (13) and 7 (17)]

### CERTIFICATE DECLARING THE CHILD LEGALLY FREE FOR ADOPTION

1. In exercise of the powers vested in the Child Welfare Committee.....under section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016), child..... date of birth.....placed in the care of the Specialized Adoption Agency/Child Care Institution(name and address) vide order no.....dated..... of this Committee, is hereby declared legally free for adoption on the basis of the following:

Inquiry report of the Probation Officer/ Child Welfare Officer / Social Worker / Case Worker/any other (as the case may be);

Deed of surrender executed by the biological parent(s) or the legal guardian of the child before this Committee on (date);

Declaration submitted by District Child Protection Unit and the Child Care Institution or Specialized Adoption Agency concerned to the effect that they have made restoration efforts as required under sub section (1) of section 40 of the Act, the rules framed thereunder and the Adoption Regulations, but, nobody has approached them for claiming the child as biological parents or legal guardian as on date of the said declaration.

Consent of older child, in case applicable.

2. This is to certify that:

The biological parent(s)/legal guardian, wherever available, has/have been counselled and duly informed of the effects of their consent including the placement of the child or children in adoption which would result in the termination of the legal relationship between the child and his or her family of origin.

The biological parents/legal guardian have given their consent freely, in the required form, and the consent have not been induced by payment or compensation of any kind and the consent of the mother (where applicable), has been given only after the birth of the child.

The Specialized Adoption Agency/Child Care Institution to which the aforesaid child is entrusted shall arrange to post the photograph and other essential details of the child in the Child Adoption Resource Information and Guidance System and shall place such child in adoption as per the procedure laid down in the Act and Adoption Regulations.

[Note: strike out the box(es) which are not relevant to the case]

[Note: Only one certificate may be issued in case of siblings or twins stating the relationship.]

[Note: To facilitate adoption in the best interest of the child, the Specialized Adoption Agency or District Child Protection Unit concerned, as the case may be, is permitted to post the profile of the child, including photograph, Child Study Report, Medical Examination Report and this certificate in the Child Adoption Resource Information and Guidance System]

Photograph of the child

Child Welfare Committee

Date and Place

Signature of any three members

Date and Stamp

To: Specialised Adoption Agency/ District Child Protection Unit – to post this certificate in Child Adoption Resource Information and Guidance System (CARINGS).

Copy to: District Child Protection Officer (DCPO), Name of the District.

## SCHEDULE II

[See regulations 2(6), 6(15), 7(18), 58(5)(a) and 58(6)(a)]

### CHILD STUDY REPORT

**Child Adoption Resource Information and Guidance System (CARINGS)**

**Registration No:**

**Aadhar Card No:**

**Name of the Specialised Adoption Agency (SAA)/Child Care Institution (CCI):**

The detailed report on the child shall include identifying information supported by documents. Child Study Report should be prepared as soon as the child is declared legally free for adoption by the Child Welfare Committee.

Photograph of  
the child

Name and address of the Institution:-

**I. GENERAL INFORMATION:**

1. Name of the Child. ----- (given by biological mother or parents or by the Specialised Adoption Agency/Child Care Institution or Child Welfare Committee)
2. Present age and date of birth:
4. Sex:
5. Place of Birth:
6. Religion (if known):
7. Type of child: Orphan/ abandoned/ surrendered
8. Date of admission of the child to the Specialised Adoption Agency/Child Care Institution:
9. Date of production before Child Welfare Committee:
10. Date declared as legally free for adoption by the Child Welfare Committee:

**II. SOCIAL DATA:**

Please do not give identifying information about the natural parent.

1. How did the child come to your institution?
  - (a) Admitted directly by parent or any other guardian:
  - (b) Placed by Child Welfare Committee directly:
  - (c) Transferred from any other institution, if so name of the institution:
  - (d) Any other source:
2. Reasons for seeking protection in the Institution:
3. Attitude of the child towards other children, if applicable
4. Behaviour and relationship of the child towards staff and other adults including strangers:
5. General intelligence:
6. If the child is enrolled in school, give a detailed report about his or her standard, attendance, general interest in studies, progress, if any:
7. General personality and description of the child:
8. Play activity and any specific talent: Milestones of the child (for children below 18 months). Please mark Yes or No (based on age appropriate responses)
 

Does the child:-

  - (a) Smile
  - (b) Turn on his sides
  - (c) Lift its head
  - (d) Grasp objects in its hand
  - (e) Crawl on its own
  - (f) Sit with full support or Sit without support
  - (g) Stand with support or Stand without support
  - (h) Walk with support or Walk without support
9. Dietary Habits:
 

Intake of liquid food:

Semi-solid food:

Solid food:
10. Developmental Assessment (language spoken, behaviour, basic play skills, physical activity and communication and social skills etc.):
11. Social Background: (This should include his social history i.e. brief background of the birth parents and circumstances necessitating the child's surrender or abandonment, etc. Please do not give identifying information such as name and address of birth parents or relatives.)

12. I \_\_\_\_\_ Social Worker hereby certify that the information given in this form about child \_\_\_\_\_ is correct.

Signature:

Place:

Name:

Date:

Designation:

We have read and understood the contents of the Child Study Report and are willing to accept \_\_\_\_\_ as our adoptive child.

(Signature of the male applicant) (Signature of the female applicant)

(Name of the male applicant) (Name of the female applicant)

Place and Date:

Place and Date:

### SCHEDULE III

[See regulations 2(13), 6(15), 7(18), 58(5)(a) and 58(6)(a)]

### MEDICAL EXAMINATION REPORT OF THE CHILD

A duly registered physician should complete the report. If any information is not available, please state "Not Available".

(if the child is below 1 year, he/she should be examined by Paediatrician)

### Child Adoption Resource Information and Guidance System (CARINGS)

**Registration No.**

**Health Status: Normal/Special Need**

**Date of Admission:**

**Name of the Specialised Adoption Agency:**

**Name of the Child Care Institution:**

### A. General Information

1. Name of the child :
  2. Date and year of birth :
  3. Sex:
  4. Place of birth:
  5. Nationality:
  6. Name of the present institution: Placed since:
  7. Weight at birth (in kg. at admission): kg.
  8. Head Circumference :
  9. Length at birth (in cm. at admission): cm.
  10. Was the pregnancy and delivery normal? Yes or No or Do not know
  11. Where has the child been staying?
- With his or her mother: from to
- With relatives: from to
- In private care: from to
- In institution or hospital: from to

(Please state the name of the institution or institutions concerned)

Note: In case of new born children, refer to Medical Test for different age groups in **Schedule IV** [paragraph (A) New Born].

### B. Medical Details

1. Has the child had any diseases during the past ? (if yes, please indicate the age of the child in respect to each disease, as well as any complication): Yes or No or Do not know
2. If yes:  
Children's ordinary diseases (whooping cough, measles, chicken-pox, rubella, mumps):  
Tuberculosis:

Convulsions (incl. Febrile convulsions): Any other disease: Exposure to contagious disease:	
3. Has the child been vaccinated against any of the following diseases: <div style="text-align: right;">Yes or No or Do not know</div>	
4. If yes:	
Tuberculosis (B.C.G.)	Date of immunisation:
Diphtheria	Date of immunisation:
Tetanus	Date of immunisation:
Whooping cough	Date of immunisation:
Poliomyelitis	Date of immunization:
Hepatitis A	Date of immunisation:
Hepatitis B	Date of immunisation:
MMR (Measles)	Date of immunization:
Other immunizations	Date of immunisation:
5. Has the child been treated in hospital? <div style="text-align: right;">Yes or No or Do not know</div>	
6. If yes state name of hospital, age of child, diagnosis, and treatment:	
7. Give, if possible, a description of the mental development, behaviour and skills of the child.	
(i) Visual	When was the child able to fix?
(ii) Aural	When was the child able to turn its head after sounds?
(iii) Motor	When was the child able to sit by itself?
	When was the child able to stand with support?
	When was the child able to walk without support?
(iv) Language	When did the child start to speak monosyllables?
	When did the child start to say single words?
	When did the child start to speak sentences?
(v) Contact	When did the child start to smile?
	How does the child communicate with adults and other children?
	How does the child react towards strangers?
(vi) Emotional	How does the child show emotions (anger, uneasiness, disappointment, joy)?

<b>C. Medical Examination Details:</b>
1. Date of the Medical Examination
2. Colour of hair: 3. Colour of eyes: 4. Colour of skin:
5. Through my complete clinical examination of the child I have observed the following evidence of disease, impairment or abnormalities (in case applicable): (i) Head (form of skull, hydrocephalus, craniotabes ) (ii) Mouth and pharynx (harelip or cleft palate, teeth) (iii) Eyes (vision, strabismus, infections) (iv) Ears (infections, discharge, reduced hearing, deformity) (v) Any dysmorphic facies? If yes, describe (vi) Organs of the chest (heart, lungs) (vii) Lymphatic glands (adenitis) (viii) Abdomen (hernia, liver, spleen) (ix) Genitals (hypospadias, testis, retention) (x) Spinal column (kyphosis, scoliosis) (xi) Extremities (pes equinus, valgus, varus, pes calcaneovarus, flexation of the hip, spasticity, paresis) (xii) Skin (eczema, infections, parasites) (xiii) Other diseases?
6. Are there any symptoms of syphilis in the child? Result of syphilis reaction made (date and year): Positive or Negative or Not done
7. Any symptoms of tuberculosis? Result of tuberculin test made (date and year): Positive or Negative or Not done
8. Any symptoms of Hepatitis B?  Result of tests for Hbs Ag (date and year): Positive or Negative or Not done Result of test for anti-HBs (date and year): Positive or Negative or Not done Result of tests for HBeAg (date and year): Positive or Negative or Not done Result of tests for anti HBe (date and year): Positive or Negative or Not done
9. Any history of Jaundice and blood transfusion? Results of tests for HBsAG (date and year)? If positive, whether specialist consultation taken (yes/ no, date and year); and further tests/ treatment undertaken (attach a copy of the documents)
10. HIV Test (refer to Standard Medical Test at <b>Schedule IV</b> ) HCV (Hepatitis C) (refer to Standard Medical Test at <b>Schedule IV</b> )



11. Does the urine contain: Sugar? Albumen? Phenylyketone?
12. Stools (diarrhoea, constipation):  Examination for parasites: Positive or Negative or Not done
13. Is there any mental disorder or retardation of the child?
14. Give a description of the mental development, behaviour and skills of the child.
15. Any additional comments? Note: 1. Refer to Infants between 1 month to 1 year of age in Section 'B' of Medical Test in <b>Schedule IV</b> . 2. Refer to Age 1-3 years and more than 3 years of Medical Test in <b>Schedule IV</b> [paragraph (C)].

**D. Report concerning the psychological and social circumstances of the child (wherever required, assistance may be taken from special educator, physiotherapist, speech therapist and the social worker)**

Please decide on each heading.	
<b>(i) Activity with toys (age appropriate as applicable):</b>	
1. The child's eyes follows rattles or toys, that are moved in front of the child	
2. The child holds on to a rattle	
3. The child plays with rattles: putting it in the mouth, shaking it, moving it from one hand to the other etc.	
4. The child puts cubes on top of each other.	
5. The child plays purposely with toys: pushes cars, puts dolls to bed, feeds dolls etc.	
6. The child plays role-play with toys with other children.	
7. The child draws faces, human beings or animals with distinct features.	
8. The child cooperates in structured games with other children (ballgames, card games etc).	
<b>(ii) Vocalization or language development (age appropriate as applicable):</b>	
1. The child vocalizes in contact with caregiver	

2. The child repeats different vowel-consonant combinations (ba-ba, da-da, ma-ma etc.)	
3. The child uses single words to communicate	
4. The child speaks in sentences	
5. The child understands prepositions as: on top of, under, behind etc.	
6. The child uses prepositions as: on top of, under, behind etc.	
7. The child speaks in past tense	
8. The child writes his own name	
9. The child reads simple words	
10. Any other observation	
<b>(iii) Motor development (age appropriate as applicable):</b>	
1. The child turns from back to stomach from age: _____	
2. The child sits without support from age: _____	
3. The child crawls or moves forward from age: _____	
4. The child walks with support of furniture from age: _____	
5. The child walks alone from age: _____	
6. The child climbs up and down stairs with support from age: _____	
7. The child climbs up and down stairs without support from age: _____	
<b>(iv) Contact with adults (age appropriate as applicable):</b>	
1. The child smiles in contact with known caregiver	
2. The child is more easily soothed when held by known caregiver	
3. The child cries or follows known caregiver, when the caregiver leaves the room	
4. The child actively seeks known caregiver when he or she is upset or has hurt him or herself	
5. The child seeks physical contact with all adults, that come into the ward	

6. The child communicates his feeling in words to caregivers

**(v) Contact with other children (age appropriate as applicable):**

1. The child shows interest in other children by looking or smiling at their activity

2. The child enjoys playing beside other children

3. The child engages actively in activities with other children

**(vi) General Level of Activity:**

1. Active      2. Overactive      3. Not Very Active

**(vii) General mood :**

1. Sober

2. Emotionally indifferent

3. Fussy, difficult to soothe

4. Happy, content

In case of special needs child, specify the category of the child.

Overall Observation of the child:

**Signature of the Examinee Physician**

**Designation and**

**Registration No.**

**Stamp**

**Date**

**E. Acceptance of Medical Examination Report by Prospective Adoptive Parent(s)**

We have read and understood the contents of the **Medical Examination Report** and are willing to accept \_\_\_\_\_ as our adoptive child.

(Signature of the male applicant)

(Signature of the female applicant)

(Name of the male applicant)

(Name of the female applicant)

Date:

Place:

Date:

Place:

## SCHEDULE IV

[See regulation 29(1)(f)]

## MEDICAL TEST FOR CHILDREN ADMITTED INTO INSTITUTIONS

## (1) Medical test for a child admitted into an institution can be broadly divided into two categories:

- (a) To diagnose an illness/ condition that requires specific treatment, and thus testing would help in restoring the health of the child.
- (b) To diagnose an illness/ condition of a nature that implies that the child will require special attention (medical and parental) beyond what a normal child needs, and therefore the family that adopts him/ her should be aware of the condition.

## (2) Following shall be considered while conducting the medical test:

- (a) The interest of the child has to be foremost.
- (b) If the test results warrant further testing, specific therapy or consultation with specialists, should be undertaken by the agency/ institution where the child is staying.

## (3) Medical Tests for different age groups:

## A. Newly born:

- (a) Preterm newborns or those newborns weighing <2000g at birth or admission should be evaluated by a specialist neonatologist or paediatrician. These babies should undergo screening for Retinopathy of prematurity.
- (b) Screening for hypothyroidism by thyroid function test (T4,TSH)
- (c) Hearing screening: Otoacoustic Emissions (OAEs) or Brain stem evoked response audiometry (BERA)
- (d) Screening for critical congenital heart disease: Pulse oximetry
- (e) HBsAg

If any of these screening tests is abnormal, further confirmatory tests and specialists' opinion should be **mandatory**, before labelling the child as special need.

## B. Infants between 1 month to 1 year of age

- (a) Infants should be evaluated by a pediatrician
- (b) Screening for hypothyroidism by thyroid function test (T4,TSH)
- (c) Hearing screening: Otoacoustic emission (OAE) or Brain stem evoked response audiometry (BERA)
- (d) Complete blood count, liver function test and renal function test (CBC, LFT and RFT)
- (e) HIV testing in children older than 4-6 weeks of age
- (f) HCV testing in children older than 3 months of age
- (g) HBsAg

If any of these screening tests is abnormal, further confirmatory tests and specialists' opinion should be **mandatory**, before labelling the child as special need.

## C. Age 1-3 years and more than 3 years

- (a) In high risk areas (central and western states of India and tribal populations), screening for sickle cell anaemia is advised by complete blood count and either of these-haemoglobin electrophoresis or solubility testing for haemoglobin S or isoelectric focusing or high-performance liquid chromatography (HPLC).

If a child is found to be a carrier/trait for beta thalassemia or sickle cell anaemia on screening, he or she is unlikely to be affected or have transfusion requirement, and hence should not be considered as special need.

- (b) HIV - Procedure for diagnosis in infants and children below 18 months of age:-

- (i) HIV serological testing is used for the diagnosis of HIV in adults and children above 18 months of age.
- (ii) Serological tests are not reliable and difficult to interpret in infants and children below 18 months of age because of passage of maternal HIV antibody across the placenta.
- (iii) In children younger than 18 months, diagnosis of HIV infection is based on: a positive virological test for HIV or its components (HIV RNA or HIV DNA or ultrasensitive [Us] HIV p24 Ag) confirmed by a second virological test performed on a separate specimen taken more than 4 weeks after birth.

- (iv) The WHO guidelines strongly recommend that all HIV-exposed infants have HIV virological testing at 4–6 weeks of age or at the earliest opportunity thereafter.
- (v) If the child is older than 9 months, an HIV serological test is recommended prior to any virological testing, and a virological test should be performed for those with a reactive HIV serological test.
- (vi) In the non-breastfed or never-breastfed infant, a negative serological test result at or above the age of 9 months can be used to rule out HIV infection.
- (vii) In infants with an initial positive virological test result, it is strongly recommended that antiretroviral therapy (ART) be started without delay and, at the same time, a second specimen collected to confirm the result.
- (viii) All the infants with unknown or uncertain HIV exposure being seen in health-care facilities at or around birth or at the first postnatal visit (usually 4–6 weeks), or other child health visit, have their HIV exposure status ascertained.
- (ix) If the infant is seen <72 hrs after the delivery and HIV exposure is identified, post-exposure prophylaxis (PEP), counselling on safe breastfeeding and an HIV virological test at 4-6 weeks is recommended.
- (x) For infants first seen at 4-6 weeks or the earliest thereafter and in whom HIV exposure is documented, HIV virological testing should be performed and the mother should receive safe infant-feeding counselling.
- (xi) A negative HIV serological test in the mother does not per se exclude HIV exposure; the possibility of very recent incident infection of the mother during this pregnancy should be kept in mind.  
In infants and children less than 18 months of age, a positive HIV serological test confirms HIV exposure but cannot definitively diagnose HIV. HIV serological testing can be used to exclude HIV infection.
- (c) HCV diagnosis in infants and children:-
  - (i) Hepatitis C infection (HCV) is a chronic viral infection of the liver that affects 1-2% of adults and about 0.15 to 0.4% of children and adolescents.
  - (ii) In children, the infection is mostly acquired from mothers (vertical transmission).
  - (iii) Screening is by testing for HCV antibody in blood. The mother's HCV antibody crosses the placenta and can stay in the blood of an infant for up to 18 months. Thus the anti-HCV antibody test cannot be done to screen for HCV in infants <18 months of age.
  - (iv) The American Academy of Pediatrics (AAP) recommends testing with antibody test after 18 months of age in high-risk children. Positive antibody test should be confirmed by HCV-PCR.
  - (v) If the baby is born to a known HCV positive mother (or in babies in adoption homes), testing with the HCV-PCR can be done. This should be done after 3 months of age due to a high rate of temporarily positive tests in infants under 3 months of age. Two negative HCV-PCR tests separated by at least 2-3 months are needed to confirm that there is not an infection with the hepatitis C virus.
- (d) HBsAg
- (e) CBC, LFT and RFT

\*\*\*

**SCHEDULE V**

[See regulation 7 (3) ]

**DEED OF SURRENDER**

Case No.....

In Re.....

1. I/We, the undersigned..... (Family name/First name(s)) residing at ..... surrender my/our child(ren) ..... (named) Aged....., having date of birth ..... on our own and without any coercion, compulsion, threat, payment, consideration, compensation of any kind;
2. I/we have been counselled and informed:
  - (a) about the implication that I/we can withdraw our consent until 60th day of this surrender deed after which my/our consent will be irrevocable and I/we shall have no claim over the child or children.
  - (b) have been made aware of the implications of surrender and are conscious of the fact that after the 60<sup>th</sup> day from date of the surrender deed, the legal parent-child relationship between my/our child or children and me/us will be terminated.
  - (c) understand that my/our child may be adopted by person(s) residing in India or abroad and give my/our consent for this purpose.
  - (d) understand that the adoption of my/our child will create a permanent parent-child relationship with the adoptive parent(s) and then cannot claim back the child.
3. I/we wish/do not wish (please tick whichever is applicable) my/our identity and address to be disclosed to my/our child when he/she returns for root search.
4. I/we declare that I/We have read the above statements carefully and have fully understood the same.

Done at ..... on.....

[Signature or Thumb Impression of  
surrendering person(s)]

**5. Declaration by Witnesses**

We the undersigned have witnessed the above surrender.

- (a) Signature, Name and Address of the first witness  
.....  
.....
- (b) Signature, Name and Address of the second witness  
.....  
.....

**6. Certification of child welfare committee**

We hereby certify that the person and the witness(es) named or identified above appeared before me this date and signed this document in our presence.

Done at ..... on.....

**Signature and Seal of Members/  
Chairperson Child Welfare Committee**

**SCHEDULE VI**

[See regulations 9(1), 15(3), 20(1), 40(6), 42(3), 52(1) and 53(3)]

**ONLINE REGISTRATION FORM**

**AND LIST OF DOCUMENTS TO BE UPLOADED**

<b>Date of Registration:</b>	
<b>Applicant category:</b>	Indians living in India, the prospective adoptive parents will have to register themselves.  In case of overseas citizen of India or a foreign national habitually residing in India, the prospective adoptive parents have to register themselves.



	In cases of non-resident Indian, overseas citizen of India or a foreign prospective adoptive parents habitually residing in a foreign country, registration shall be done by Authorized Foreign Adoption Agency (AFAA) or Central Authority (CA) or Foreign Government department concerned in the country of residence.  In case of non-Hague countries, Indian mission abroad can process the applications of non-resident Indian prospective adoptive parents.	
<b>Applicant status:</b>	Single-unmarried/widow/widower/divorcee/ legally separated  or  Married couple (Date of marriage, place of marriage)	
<b>Personal Information:</b>		
	Male	Female
Name		
Date of Birth		
Nationality by Birth		
Current Nationality/Citizenship		
Current residential address		
City/District		
State		
Country		
Zip/Pin code		
Phone no.		
Mobile no.		
Email		
<b>Occupation Details</b>		
Nature of occupation	Govt. job/private job/ public sector job/ Business /Non-profit Organisation/ consultant/ professional/ Others/ Not Working	
Place of Work		
Annual Income		
No. of Biological/ Adopted Children	Total ( )	
<b>Identification Details (as applicable):</b>		
PAN Number		
Aadhar Card Number		
Overseas Citizens of India Card Number		
Passport Number		
<b>Preference for Adoption:</b>		
Gender	Boy/Girl/No Choice	
Child Category	Sibling/Single	
Health Status	Normal/Physically Challenged/Mentally Challenged	

Age	0-2 years/2-4 years/4-6 years/6-8 years/8-10 years/10-12 years/ 12-14 years/14-18 years
Preference for State:	
Name of the Agency for Home Study Report	
Address of the Agency	
Motivation for Adoption (Max 200 characters)	
<p>In case of Resident Indians, Overseas Citizens of India/Foreign prospective adoptive parents residing in India, the prospective adoptive parents shall have to register themselves with all relevant documents.</p> <p>In case of NRI/ Overseas Citizens of India/Foreign prospective adoptive parents residing abroad, registration will be done by the concerned authority, i.e. Authorised Foreign Adoption Agency (AFAA) or Central Authority (CA) or Government department or Indian Mission (in cases of Indian citizens) only after completion of Home Study Report.</p> <p>This is also applicable in case of Overseas Citizen of India or foreign prospective adoptive parents residing in India</p>	<p><b>Documents to be uploaded at the time of registration</b></p> <p><b>1. In-country Adoption (Indians residing in India)</b></p> <p>(1) Current family photograph/ Photograph of person adopting a child</p> <p>(2) PAN Card of the prospective adoptive parents</p> <p>(3) Birth certificate/Proof date of birth of the parents (In case of married couple, upload Birth Certificate of both the applicants)</p> <p>(4) Proof of residence (Aadhar card/ voter card/ passport/current electricity bill/telephone bill)</p> <p>(5) Proof of income of last year (salary slip/income certificate issued by Govt. department/income tax return)</p> <p>(6) Certificate from a medical practitioner certifying that the prospective adoptive parents do not suffer from any chronic, contagious or fatal disease and they are fit to adopt (In case of married couple, upload Medical Certificate of both the applicants)</p> <p>(7) Marriage certificate/Divorce Decree/ Declaration from the competent court or affidavit on oath pertaining to divorce in case of divorce governed by personal law where decree of divorce is not mandatory/Death certificate of spouse whichever is applicable.</p> <p><b>2. Inter-country Adoption in cases of NRI/Overseas Citizens of India and Foreign prospective adoptive parents</b></p> <p>(1) Photograph of the applicant(s)</p> <p>(2) Home Study Report of Overseas Citizens of India and foreign prospective adoptive parents residing in India to be uploaded later after registration)</p> <p>(3) Passport (Male prospective adoptive parent)</p> <p>(4) Passport (Female prospective adoptive parent)</p> <p>(5) Overseas Citizen of India card of the prospective adoptive parents (if applicable)</p> <p>(6) Birth Certificate (Male prospective adoptive parent)</p> <p>(7) Birth Certificate (Female prospective adoptive parent)</p> <p>(8) Proof of Residence</p> <p>(9) Proof of income of last year (e.g. salary slip/income certificate issued by Government department /Income tax return)</p> <p>(10) Certificate from a medical practitioner certifying that the prospective adoptive parents do not suffer from any chronic, contagious or fatal disease and they are fit to adopt.</p> <p>(11) Police Clearance certifying the antecedents of male prospective adoptive parent.</p> <p>(12) Police Clearance certifying the antecedents of female prospective adoptive parent.</p>

	<p>(13) Marriage Certificate (in case of couple)</p> <p>(14) Copy of divorce decree/Declaration from the competent court or affidavit on oath pertaining to divorce in case of divorce governed by personal law where decree of divorce is not mandatory/death certificate of the spouse (if applicable).</p> <p>(15) Undertaking from the relative in case of single PAP (if applicable).</p> <p>(16) In case of Overseas Citizens of India/Foreign prospective adoptive parents living in India, a copy of No Objection Certificate from their Embassy/High Commission for adoption and assurance for post adoption follow up in case the prospective adoptive parents relocate from India (if applicable).</p> <p>(17) 1st Reference Letter from a respected member of the society known to the PAPs.</p> <p>(18) 2nd Reference Letter from a respected member of the society known to the PAPs.</p> <p style="text-align: center;"><u>Other documents to be uploaded after referral</u></p> <p>(19) Consent of the older child/children in the family (more than five years of age)</p> <p>(20) Consent of the older child to be adopted</p> <p>(21) Permission of the receiving country as per Article 5 or 17 of the Hague Adoption Convention (applicable in case of Hague ratified country).</p> <p>(22) In case of prospective adoptive parents residing abroad, undertaking from the prospective adoptive parents to allow personal visits by the representative of the Authorised Foreign Adoption Agency (AFAA) or CA (Central Authority) or concerned Government department or Indian Mission, as the case may be, for follow-up of the progress of the child as required under the Adoption Regulations.</p> <p>(23) In case of Overseas Citizen of India/foreign prospective adoptive parents living in India, undertaking from the concerned Specialised Adoption Agency to provide post adoption follow-up.</p> <p>(24) In case of Overseas Citizen of India/foreign prospective adoptive parents living in India, undertaking to allow personal visits of the representative of the Specialised Adoption Agency or District Child Protection Unit or State Adoption Resource Agency at least for a period of two years from the date of adoption.</p> <p>(25) Undertaking from the Authorised Foreign Adoption Agency to provide progress report of the child for a period of two years and make alternate arrangement in case of disruption.</p>
<p>In case of NRI and Overseas Citizen of India prospective adoptive parents residing abroad, registration will be done by the concerned authority, i.e. Authorised Foreign Adoption Agency (AFAA) or Central Authority (CA) or Government department or Indian Mission (in cases of Indian citizens) for the purpose of relative adoption only after completion of Home Study Report.</p>	<p><b>3. Inter-country Relative Adoption</b></p> <p>At the time of registration, all requisite documents to be uploaded in Child Adoption Resource Information and Guidance System as stated above in cases of inter-country Adoption[(1)-(15)].</p> <p style="text-align: center;"><u>Other documents to be uploaded after referral</u></p> <p>(1) Consent of the older child/children in the biological family (more than five years).</p> <p>(2) Consent of the older child to be adopted.</p> <p>(3) Permission of the receiving country as per Article 5 or 17 of the Hague Adoption Convention (applicable in case of Hague ratified country).</p> <p>(4) Relationship of the prospective adoptive parents to the relative child (family tree)</p>

	<p>(5) Recent family photographs of the child, adoptive parents and biological parents.</p> <p>(6) Consent of the biological family as provided in <b>Schedule XIX</b>.</p> <p>(7) Permission from the Child Welfare Committee to the legal guardian to surrender the child in adoption with the relative as provided in <b>Schedule XXII</b> (if applicable).</p> <p>(8) Family background report by District Child Protection Unit as provided in <b>Schedule XXI</b>.</p>
In case of In-country Relative Adoption, the prospective adoptive parents have to register for such adoptions in Child Adoption Resource Information and Guidance System and handover relevant documents to District Child Protection Unit to upload in Child Adoption Resource Information and Guidance System	<p><b>4. Documents to be uploaded in any case of In-country Relative Adoption</b></p> <p>(1) Proof of residence of the prospective adoptive parents.</p> <p>(2) Consent of the older child of the prospective adoptive parents for such adoption (required only in case the child is more than 5 years.)</p> <p>(3) Consent of the biological parents (as provided in <b>Schedule XIX</b> of the Adoption Regulations)</p> <p>(4) Permission from the Child Welfare Committee to the legal guardian to surrender the child in adoption with the relative as provided in <b>Schedule XXII</b> (if applicable).</p> <p>(5) Affidavit by prospective adoptive parents in support of their relationship, financial and social status as provided in <b>Schedule XXIV</b> of the Adoption Regulations.</p> <p>(6) Adoption order from court.</p>
In case of Adoption of child/children by step-parent, the biological and step parents have to register in Child Adoption Resource Information and Guidance System and provide relevant documents by uploading the same online through CARINGS.	<p><b>5. Documents to be uploaded in case of Adoption of child/children by step-parent</b></p> <p>(1) Proof of residence of the biological parent and spouse adopting the child/children along with the proof of them being legally wedded.</p> <p>(2) Consent of the biological parent(s), spouse adopting the child/children as provided in <b>Schedule XX</b> of the Adoption Regulations.</p> <p>(3) Documents as required to be attached with <b>Schedule XX</b> of the Adoption Regulations, in case applicable.</p> <p>(4) Adoption order from court.</p>

## SCHEDULE VII

[See regulations 2(11), 9 (10) and 20 (2)]

HOME STUDY REPORT OF RESIDENT INDIAN PARENT/  
OVERSEAS CITIZEN OF INDIA/FOREIGNER LIVING IN INDIA

MR. \_\_\_\_\_

MS. \_\_\_\_\_

Adoption of orphan/abandoned/surrendered children can be processed by following procedures as laid down in Adoption Regulations. All prospective adoptive parents are required to register in Child Adoption Resource Information and Guidance System (CARINGS) and adopt from authorised institutions.

CARINGS REGISTRATION NO.	-
DATE OF REGISTRATION	-
PAN CARD NO	-
AADHAR CARD NO, IF AVAILABLE	-
PASSPORT NO, IF APPLICABLE	-
NAME OF THE SOCIAL WORKER	-
DATE OF HOME VISIT	-

**Part-1** of the report is to be filled up by the Prospective adoptive parents.

The Home Study Report helps build a strong proposal for the prospective adoptive parent (s) to adopt, and therefore, prospective adoptive parents are expected to provide all information to the best of their knowledge. The prospective adoptive parents are solely responsible for the authenticity of the information provided in the template and are required to sign below on each page of Part 1.

The prospective adoptive parent(s) are encouraged to seek advice from the social worker and Counsellors in preparing themselves for adoption and for supporting the child that they wish to adopt. Any difficulty faced by the prospective adoptive parents in filling up Part 1 may be shared with the Social Worker during the home visit.

**Part-2** of the template is to be filled up by the Professional Social Worker engaged by the Specialised Adoption Agency or District Child Protection Unit or State Adoption Resource Agency or Central Adoption Resource Authority (CARA).

The Home Study Report helps the adoption agency in finding the family best suited for each child that is available for adoption. During the home study, the social worker will assess the financial, employment, health, lifestyle, home and neighbourhood environments of the prospective adoptive parent (s); their parenting styles and attitude(s); motivation for adoption; commitment towards adoption and their overall readiness-cum-maturity to adopt.

## Part – 1

**A. Familiarity with Adoption**

(This section can be filled up by either of the prospective adoptive parent)

1. What is your motivation behind adopting a child

---



---



---

2. Will you be able to support an older child, a child with an addressable medical condition or a child with special need?

Yes/No

3. Have you met any adoptive families or children who were adopted – if yes, how was your experience and response

---



---

4. Are there any areas where you may need counselling or professional help in supporting the child you wish to adopt – please provide complete details?

---



---



---



---

5. Please describe how the prospective adoption would affect other members residing with you and their support to the child.

**B. Family background information:**

Particulars	Male Applicant	Female Applicant
Name (underline Family name)		
Date of birth		
Place of birth		
Citizenship		
Address		
Email ID		
Contact Phone No. and Mobile No.		
Religion		
Language(s) spoken at home		
Date of Marriage		
Date of Earlier Marriage (if any)		
Date of divorce (if any)		
Educational Qualification		
Employment/ Occupation		
Name and Address of the present Employer/Business concern		
Annual Income		
Health Status		

Photograph of the  
prospective adoptive parents

- (1) Provide following information about your parents.

Details about Parents of the Applicants	Male Applicant		Female Applicant	
	Father	Mother	Father	Mother
Name in full				
Age				
Nationality/Citizenship				
Occupation				
Previous occupation				
Presently residing with prospective adoptive parent (Indicate Yes/No)				



- (2) Please complete the following table with the names of each of your respective children (adopted and biological), their sex, educational status (kindergarten, elementary, etc.) and dates of birth.

Name of the Child	Sex	Date of Birth	Educational Status

- (3) Please provide age, gender, occupation, and nature of the relationship of other family member(s) residing with prospective adoptive parents.

Name	Nature of Relationship	Age	Gender	Occupation

- (4) Please provide details of any other non-related adults/children living in the home (e.g. house help, staff, outside personnel etc):

---



---

- C. Professional/Employment Details (Professional career details for last 5 years):** Please complete the following table with details relating to your professional career.

Male Applicant				
Organisation	Employer Details (Name and Address)	Job Title	From	To

Female Applicant				
Organisation	Employer Details (Name and Address)	Job Title	From	To

- D. Financial Position:** (Give a short description of your income from all sources, savings, investments, expenditures and liabilities).

---



---

Please provide your most recent tax invoices, bank statements etc. of both of you.

Do you have any outstanding debts, mortgages etc.

- (a) If yes, please provide supporting documentation;  
 (b) No

**E. Current marital relationship and quality of marital relationship (if applicable):** (Give details about the marriage, legal separation, if any, reasons for such separation, present marital life and decision making procedures).

- (1) Please specify your marital status: \_\_\_\_\_
- (2) Please describe the procedures you and your spouse use to reach a decision.

**F. Attitude of grandparents/extended family members, other relatives and significant others towards the present adoption:** (Give a short description about the opinion of other important persons towards adoption who would have impact in the child rearing process when the child arrives in the receiving country.)

**G. Anticipated Plans of the prospective adoptive parents for adopted child and rearing in the Family:**

- (1) Please describe how you will manage caring for the adopted child and other life commitments such as work.
- (2) Who will be responsible for caring for the child when you are at work, or absent from the familial home (domestic help, grandparents and spouse).
- (3) In case the adopted child demonstrates adjustment difficulties, please describe the steps that you plan to take to ease his/her transition into the family?

**H. Preparation and Training for Adoption:** (Give details about the counselling if undergone on adoption, child care, handling of needs of children, prospective adoptive parents training and/or experiences in parenting children having special needs, if any)

Understanding about adoption procedure:

Reading of reference materials:

Learning from friends/relatives:

Interaction with adoptive parents groups:

Learning through counselling from professional:

**I. Possible Rehabilitation Plan for the child in case of any eventuality with prospective adoptive parent(s):** (Give a short description about your plan for the security of the child in case you face any short or long term eventuality. In case you are a single prospective adoptive parent, please give a short description about the close relative who would be giving undertaking for the security of the child).

- (1) Does your work require you to travel?
- (2) Who would care for the child in your absence? Please provide a brief description including his/her age, gender, occupation and relationship:
- (3) In the event of unforeseen misfortune do you have someone who could take legal guardianship of child? If so, Please provide a brief description including his/her age, gender, occupation and relationship and contact details:

**J. Health Status (Emotional and Physical):**

- (1) Do you or your spouse suffer from any medical condition? If so, would you please provide details?
- (2) Are you or your spouse currently being treated by a psychologist or psychiatrist?
- (3) Are you currently taking any prescribed medication?
- (4) Are there currently any child(ren) in your house being treated for a severe medical condition?
- (5) Does your family have health and hospitalization insurance coverage for all family members?

**K. Certified that the above information is true to best of our knowledge**

**Name and signature of the prospective adoptive parents**

**PART – 2**

(To be filled up by the Social Worker preparing the Home Study Report)

**As far as possible, the Home Study Report has to be completed within a period of one month from the date of registration.**

The social worker should attempt to put the prospective adoptive parents at ease by opening the conversation with a warm-up question. The social worker should employ non-verbal cues such as inclining the head and nodding to indicate that the prospective adoptive parents are actively listening. After each question, the social worker may provide the prospective adoptive parents with sufficient time to respond. Any verbal response by the social worker to an answer by the prospective adoptive parents should be neutral and non-judgmental. The social worker should attempt to establish eye contact as much as possible between reading the question and jotting down the response of the prospective adoptive parents to demonstrate empathy. The social worker should try to avoid interrupting the prospective adoptive parents unless they do not understand a response.

(The information/facts filled in the template shall be kept confidential by the agencies /authorities.)

**1. Factual Assessment:**

- (i) Have you verified the contents of the facts mentioned in Part I of the template?

Yes/No

- (ii) Are you satisfied about the facts mentioned in the documents vis-à-vis observation during interviews and visits?

Yes/No

**2. Psycho-social Assessment:****2.1 Interaction with the prospective adoptive parents**

- (i) Have you interacted with the prospective adoptive parents individually and/or jointly?
- (ii) Are the prospective adoptive parent(s) well prepared for adoption? In case of single prospective adoptive parent, please mention about family support system.

- (iii) Do you think that prospective adoptive parents have expressed their genuine feeling for parenting?

**2.2 Home visit findings:**

- (i) When did you visit the home of the prospective adoptive parents? Who were the members present during your visit?
- (ii) Whom did you interact during the home visit?
- (iii) Have you met any neighbour/relative? Give a detailed description about the interaction?
- (iv) Whether the home environment is conducive for the child? If no, what steps can be taken to improve the situation? Have you advised the prospective adoptive parents?
- (v) Are the prospective adoptive parent(s) well prepared for adoption?
- (vi) Do you think that prospective adoptive parent(s) have expressed their genuineness during the interaction?
- (vii) Did the prospective adoptive parent(s) have any doubt about parenting issues or any other issues? Have you cleared their doubts?

**2.3 Interaction with the family members:**

- (i) Have you interacted with other family members of the prospective adoptive parents? What is their opinion about the proposed adoption? Are they positive about the adoption?
- (ii) Are there any other family member(s) whom you could not interact but they might have a larger role in the proposed adoption? If so, how did you do their assessment? Did you take their views subsequently?
- (iii) Have you interacted with older child(ren) present in the home of the prospective adoptive parents? If yes, please give details.
- (iv) Have you noticed any adverse remarks from the family members? If so, how far those remarks may have an impact on the adoption process?

**2.4 Financial capacity:**

- (i) What is your opinion about the financial status of the prospective adoptive parent(s)? Are they financially sound to welcome another member into their family?
- (ii) Have you observed any financial situation which is not disclosed in Part-I?

2.5 Physical and emotional capacity:

- (i) Are the prospective adoptive parents(s) in a good physical and emotional state to take care of a child?
- (ii) Have you observed any physical or psychological issues with the prospective adoptive parent(s) or any other family member that is going to affect the life of the upcoming child? If so, give details.
- (iii) Provide details of number of rooms in the house and if there is adequate space for the child to be supported.
- (iv) Are the prospective adoptive parent(s) emotionally equipped enough to take care of a child?

**3. Recommendation for adoption.**

- 3.1 Do you recommend the prospective adoptive parent(s) for adoption? Put your views and rationale for recommending the prospective adoptive parents for adoption including the parent(s) suitability. (Attach additional sheets, if required)
- 3.2 In case you do not recommend the prospective adoptive parents for adoption, appropriate reasons for taking such decision must be given in detail.

**Signature, name, designation of Social Worker**

**SCHEDULE VIII**

**[See regulations 11(1) and 16(2)]**

**PRE-ADOPTION FOSTER CARE UNDERTAKING**

**(IN THE FORM OF AN AFFIDAVIT)**

We, Mr. \_\_\_\_\_, aged \_\_\_\_ years, citizen of \_\_\_\_\_ and Mrs. \_\_\_\_\_ aged \_\_\_\_\_ years, citizen of \_\_\_\_\_, permanently residing at \_\_\_\_\_ present address being \_\_\_\_\_ proposed Adopters of child \_\_\_\_\_ (new full name) @ \_\_\_\_\_ (old name) born on \_\_\_\_\_ presently in the care of \_\_\_\_\_ (name and address of the Specialised Adoption Agency), do solemnly hereby declare as follows:

- (1) We are taking the above mentioned child in pre-adoption foster care, pending the adoption order by the Court concerned.
- (2) We understand that until the final adoption order from the Court concerned is received, the said child shall be under the authority and guardianship of \_\_\_\_\_ (name of Specialised Adoption Agency) and we shall only remain the foster parents of the child.
- (3) The child placed with us will be given all necessary education, medical care, attention, nutrition and treatment required.
- (4) In case of any untoward incident with the child, we will report the same to the Specialised Adoption Agency immediately.
- (5) The institution will be kept informed about the development of the child once a month till the final court order is issued.
- (6) We shall attend to the legal formalities and court hearing when called upon to do to.
- (7) We undertake to bring-up the child/children as our own.
- (8) We shall allow the authorised social worker/functionary of the Specialised Adoption Agency/District Child Protection Unit/State Adoption Resource Agency to visit our home for undertaking post-adoption follow up to ascertain the progress and well-being of the child/children in our family.
- (9) We further undertake to inform any change of place of our residence (other than as stated in this application), to the Specialised Adoption Agency, District Child Protection Unit and the State Adoption Resource Agency concerned for the purpose of post adoption follow-up.

Mr. \_\_\_\_\_

Mrs. \_\_\_\_\_

Prospective Adoptive Father

Prospective Adoptive Mother

Date: \_\_\_\_\_

Witness:

Name:

Name:

Signature:

Signature:

Address:

Address:

## SCHEDULE IX

[See regulations 12(1), 15(14) and 55(1)]

## LIST OF (ATTESTED/NOTARISED) DOCUMENTS

## TO BE FILED ALONG WITH THE ADOPTION PETITION IN THE COURT

## 1. In-country Adoption

To be obtained from the Prospective adoptive parents(PAPs) by the Specialised Adoption Agency

- (1) Current family photograph/ photograph of the couple or person adopting a child
- (2) PAN Card of the prospective adoptive parents
- (3) Birth certificate/Proof of date of birth of the prospective adoptive parents
- (4) Proof of residence (aadhar card/ voter card/ passport/current electricity bill/telephone bill)
- (5) Proof of income of last year (salary slip/income certificate issued by Govt. department/income tax return)
- (6) Certificate from a medical practitioner certifying that the prospective adoptive parents do not suffer from any chronic, contagious or fatal disease and they are fit to adopt (In case of married couple, upload Medical Certificate of both the applicants)
- (7) Marriage certificate
- (8) Divorce Decree/Declaration from the competent court or affidavit on oath pertaining to divorce in case of divorce governed by personal law where decree of divorce is not mandatory/Death certificate of spouse in case of single prospective adoptive parent (if applicable).
- (9) Two reference letters from acquaintances or relatives in support of adoption.
- (10) Consent of the older child/children in the adoptive family (if more than 5 years)

To be arranged by the Specialised Adoption Agency

- (11) Child Study Report signed by the prospective adoptive parents along with recent photograph of the child.
- (12) Medical Examination Report of the child signed by the prospective adoptive parents.
- (13) Certificate of Child Welfare Committee declaring the child 'legally free for adoption'.
- (14) Home Study Report of the prospective adoptive parents along with their recent family photograph.
- (15) Recognition certificate of the agency as Specialised Adoption Agency.
- (16) Consent of the older child/children to be adopted.
- (17) Decision of the Adoption Committee (only in case of In-country adoption).
- (18) Affidavit by the Chief Functionary of the Specialised Adoption Agency to Court in support of adoption of child.
- (19) Pre-adoption foster care affidavit.

## 2. Adoption by NRI/Overseas Citizen of India/Foreign prospective adoptive parents residing in a foreign country

To be provided by the Authorised Foreign Adoption Agency(AFAA) or Central Authority(CA) or Government department or Indian Mission abroad to the Specialised Adoption Agency

- (1) Photograph of the applicant(s)
- (2) Home Study Report
- (3) Passport (Male prospective adoptive parent)
- (4) Passport (Female prospective adoptive parent)
- (5) Overseas Citizen of India card of the prospective adoptive parents (if applicable)
- (6) Birth certificate/Proof of date of birth of the prospective adoptive parents
- (7) Proof of Residence
- (8) Proof of income of last year (e.g. salary slip/income certificate issued by Government department /Income tax return)
- (9) Certificate from a medical practitioner certifying that the prospective adoptive parents do not suffer from any chronic, contagious or fatal disease and they are fit to adopt.
- (10) Police Clearance Certificate (Male prospective adoptive parent)
- (11) Police Clearance Certificate (Female prospective adoptive parent)

- (12) Marriage Certificate (in case of couple)
- (13) Two reference letters from acquaintances or relatives in support of adoption.
- (14) Divorce Decree/Declaration from the competent court or affidavit on oath pertaining to divorce in case of divorce governed by personal law where decree of divorce is not mandatory/Death certificate of spouse in case of single prospective adoptive parent (if applicable).
- (15) Consent of the older child/children in the adoptive family (if more than 5 years)
- (16) Authorisation Certificate of Authorised Foreign Adoption Agency (not required in case of Central Authority or Government department or Indian Mission)
- (17) Undertaking from the Authorised Foreign Adoption Agency concerned for furnishing post adoption follow-up report and for necessary action in case of disruption (not required in case of CA or Government department or Indian Mission)
- (18) Permission of the receiving country as per Article 5/17 of the Hague Adoption Convention.
- (19) Undertaking for permitting home visit to the social worker during post-adoption follow-up.
- (20) Power of Attorney from the prospective adoptive parents in favour of the authorized functionary of the Specialised Adoption Agency to file the adoption application on their behalf in the court.  
To be arranged by the Specialised Adoption Agency
- (21) Child Study Report signed by the prospective adoptive parents along with recent photograph of the child.
- (22) Medical Examination Report of the child signed by the prospective adoptive parents.
- (23) Certificate of Child Welfare Committee declaring the child 'legally free for adoption'.
- (24) Recognition certificate of the agency as Specialised Adoption Agency
- (25) Consent of the older child/children to be adopted
- (26) Affidavit by the Chief Functionary of the Specialised Adoption Agency to Court in support of adoption of child.
- (27) Pre-adoption foster care affidavit (wherever required)
- (28) NOC issued by CARA in favour of adoption of a child by a Non-Resident Indian/Overseas Citizen of India/Foreign prospective adoptive parents. In case of Overseas Citizen of India/Foreign prospective adoptive parents living in India, a copy of **No Objection Certificate** from their Embassy/ High Commission for the proposed adoption.

### 3. Inter-country Relative Adoption

As indicated in **Schedule VI** of the Adoption Regulations, the prospective adoptive parents shall file the adoption application in the court concerned of the district through their power of attorney, where the child resides with biological parents or guardians.

### 4. In-country Relative Adoption

As indicated in **Schedule VI** of the Adoption Regulations, the prospective adoptive parents shall file the adoption application in the court concerned of the district where the child resides with biological parents or guardians.

**NOTE:** Only the above mentioned list of certificates/documents as applicable are required to be filed. Infertility certificate is NOT required in any case of adoption.

## SCHEDULE X

[See regulation 16(1)]

### CENTRAL ADOPTION RESOURCE AUTHORITY

(A Statutory Body of Ministry of Women and Child Development)

Certificate Number:

Date:

### NO OBJECTION CERTIFICATE

Photograph of the child and the prospective adoptive parents
--

Certified that the Central Adoption Resource Authority (CARA), the Central Authority of India on adoption matters, under the Ministry of Women and Child Development, Government of India, has '**NO OBJECTION**' to the adoption of the child/children with the prospective adoptive parents as per the details mentioned below:



Ser No	Name of the Child	Sex of Child	Date of Birth	Name and Address of the Prospective Adoptive Parent(s)
(i)				

2. This NOC is issued as per Adoption Regulations, 2017 and Article 17 (c) of the Hague Convention on the Protection of Children and Cooperation in respect of inter-country Adoption, 1993.

3. The Specialised Adoption Agency and the Foreign Adoption Agency/Central Authority/concerned Foreign Government department/Indian Diplomatic Mission have been authorized to process this adoption case.

4. The Specialised Adoption Agency shall file the adoption application in the competent court.

Signature and Seal of

Authorized Signatory

To:

- (1) Name and address of the Specialised Adoption Agency.
- (2) Name and address of the State Adoption Resource Agency / concerned State Government department.
- (3) Name and address of Authorized Foreign Adoption Agency (AFAA)/concerned Foreign Government department/Indian Diplomatic Mission.
- (4) Diplomatic Mission of the Receiving Country in India.
- (5) Central Authority of the Receiving Country.
- (6) Foreigners' Regional Registration Officer (FRRO).

#### SCHEDULE XI

[See regulation 18(1)]

#### CENTRAL ADOPTION RESOURCE AUTHORITY

Certificate Number:

Date:

Photograph of the child and the prospective adoptive parents

#### CONFORMITY CERTIFICATE

(Under Article 23 of the Hague Convention on Protection of Children and Co-operation in respect of inter-country Adoption, 1993)

1. The undersigned authority:

(Name and address of the competent authority of the State of adoption)

.....  
 .....  
 .....

2. Hereby certifies that the child:

Family name: .....

First name(s): .....

Sex: Male [ ] Female [ ]

Date of birth: day .... month .... year ....

Place of birth: .....

Habitual residence: .....

3. Was adopted according to the decision of the following authority:

.....

Date of the decision: .....

Date at which the decision became final: .....

*(If the adoption was made otherwise than by a decision of an authority, please specify the equivalent details)*

4. By the following person(s):

(a) Family name of the adoptive father: .....

First name(s): .....

Date of birth: day . . . month . . . year . . .

Place of birth: .....

Habitual residence at the time of the adoption: .....

(b) Family name of the adoptive mother: .....

First name(s): .....

Date of birth: day . . . month . . . year . . .

Place of birth: .....

Habitual residence at the time of the adoption: .....

5. The undersigned authority certifies that the adoption was made in accordance with the Convention and that the agreements under Article 17, sub-paragraph c, were given by:

(a) Name and address of the Central Authority of the State of origin:

.....  
.....  
.....

Date of the agreement: .....

(b) Name and address of the Central Authority of the receiving State:

.....  
.....  
.....

Date of the agreement: .....

6. The adoption had the effect of terminating the pre-existing legal parent-child relationship.

Done at ....., on ..... ☐

Signature and Seal of  
Authorized Signatory

To:

- (1) Name and address of the Specialised Adoption Agency.
- (2) Name and address of the State Adoption Resource Agency/State Government concerned department.
- (3) Name and address of Authorized Foreign Adoption Agency (AFAA)/concerned Foreign Government department/Indian Diplomatic Mission.
- (4) Diplomatic Mission of the Receiving Country in India.
- (5) Central Authority of the Receiving Country.
- (6) Foreigners' Regional Registration Officer (FRRO).

**SCHEDULE XII**

[See regulations 13(1), 19(1) and 20(5)]

**POST- PLACEMENT REPORT OF THE CHILD**

REPORT NO:

DATE:

Photograph of the child with  
family

**1. IDENTIFYING INFORMATION:**

- (a) Child's Name(initial and given. if any) :
- (b) Surname/family name:
- (c) Child's date of birth:

**2. CONTACT DETAILS OF THE ADOPTIVE PARENTS:****3. CHILD'S ADJUSTMENT:**

- (a) Current height and weight
- (b) Results of physical examinations or doctor visits
- (c) Eating and sleeping habits
- (d) Emotional, physical and social development
- (e) Attachment to family members
- (f) Child's enrolment in school (if applicable)
- (g) Language(s) spoken (if applicable)

**4. ADJUSTMENT BETWEEN ADOPTIVE FAMILY AND THE CHILD:****5. SIGNIFICANT CHANGES IN FAMILY STRUCTURE OR DYNAMICS, IF ANY:**

(Change of residence, employment, work responsibilities, illness, etc.)

**6. OBSERVATIONS AND RECOMMENDATIONS OF SOCIAL WORKER**

(Signature)

**Social Worker's Name:****Agency Name and Date****Note:** Online updating of post-placement report is mandatory**SCHEDULE XIII**

[See regulations 24(1)(f) and 26(4)(h)]

**STANDARDS OF CHILD CARE IN SPECIALISED ADOPTION AGENCIES**

- 1. The agencies are required to ensure that the following facilities are provided to the children in the institution:

**(a) Physical facilities:**

- (i) Physical surroundings in which the children are cared for must be clean. Sanitation and hygiene maintained at the agency must be adequate since a majority of children at the institution are small and suffer from numerous ailments. Children below the age of 1 year should be in a room with an attached bathing room and milk room. Children between the age of 1 – 3 years should be kept in a room with an attached bathing and bathroom. The older children need to be separated into two boy's room and girls room. Each room must have attached baths, and toilets.
- (ii) There should be a separate washing area and a large kitchen and dining hall for the older children. Good lighting, ventilation and adequate space must be mandatory.
- (iii) The home should be neat, clean, particularly bathrooms, toilets and kitchen. Walls and surroundings must be bright and stimulating. For visual stimulation the rooms should be well painted and decorated with toys, animal cut outs, etc

- (b) **Medical facilities:** Regular medical inspection must be done. Preferably every alternate day by a registered medical practitioner. The child specialist is best trained to diagnose and treat children who are at risk and highly vulnerable.
- (i) Infants and children on admission to institutions should be in quarantine and observation for a week at least.
  - (ii) Weight, height and head circumference may be noted along with any other details available on the child at admission.
  - (iii) A medical record should be maintained and a doctor must assess the child as soon as possible, preferably within 24 hours of his or her admission.
  - (iv) Each child below the age of six months should be photographed every month, from six months to 3 years every three months and thereafter, every six months.
  - (v) Immunization should be regularly given and monitored.
  - (vi) Emergency kits should be available at all times in the Home and there should be a doctor on call.
  - (vii) General health measures viz hygiene, dental, skin care and diet to be supervised.
  - (viii) Stimulation is very important for the proper development of the child. This could be achieved by increasing awareness amongst the nurses, helpers by introducing simple stimulation techniques in the daily routine. It is also advised to have a physiotherapist visit the children on a regular basis.
- (c) **Staff:**
- (i) The agency must have adequate staff for child care, preferably in the ratio of 4:1 for children below 1 year, 5:1 for children in the age group 1 to 3 years and 8:1 for older children.
  - (ii) Adoption Homes need personnel who are sensitized to the issues of the children. They need to be “educated” in caring for the children. It is recommended to conduct workshops for nurses, helpers, care takers and other staff to enable them to recognize the special status of these children who are under their care.
  - (iii) As committed staff is an integral part of good child care, the motivational levels of the staff should be kept high.
  - (iv) Staff to be immunized as well.
- (d) **Clothing:** It is important that the children in a home are dressed in clean, comfortable and well-kept clothes at all times, not just during the visit of the adoptive parents.
- (e) **Food:** The food in the institution should be hygienically cooked, nourishing and tasty. The menu should be varied. The need of children on a special diet should be attended to. This will help overcome the problems of malnutrition faced by children entering a home. Feeding charts with indication of the formulas may be displayed and followed.
- (f) **Education:** The Specialised Adoption Agency should be able to provide informal education through a qualified teacher, and a special educator, or tie up with a school that will take the child or children on a temporary basis.

**Note:** All adoption agencies shall adhere to the standards of child care prescribed under the Juvenile Justice (Care and Protection of Children) Model Rules, 2016.

2. While providing child care, the following issues are important:

- (a) A child’s neurological growth is complete within the first few years of his or her early childhood and determines the brain’s capabilities throughout the rest of his or her life. Moreover, a child needs to have experienced positive attachment by the age of 3 in order to develop cognitively, physically, socially, and psychologically. Hence, every effort shall be made by the Specialised Adoption Agency to expeditiously find alternate family for such children so that they develop attachment and proper bonding experiences during infancy itself.
- (b) It is very essential to talk, hug, hold, play, tell stories and sing to the child to give it a sense of security. Though this should be done regularly by the staff, it is also advisable to encourage volunteers to take up this activity.
- (c) Quality child care (early childhood care) means providing adequate health care, immunization, feeding and nutrition, creating a safe environment so that infants and young children can play and socialize with their peers, promoting school readiness and preparing children for primary school and focusing on total development during early years of childhood.
- (d) It should be ensured that there is no instance of child abuse and neglect while the child is in the institution.

**SCHEDULE XIV****[See regulation 43]****TIMELINE FOR AUTHORITIES CONCERNED AND AGENCIES****A. Timeline for the processes relating to children:**

<b>Ser No</b>	<b>Regulation</b>	<b>Action</b>	<b>Time</b>
1.	6(2)	Specialised Adoption Agency to produce an abandoned child before the Child Welfare Committee along with a report containing his photograph and particulars.	Within 24 hours (excluding journey period).
2.	6(5) and 7(10)	Specialised Adoption Agency to enter the details of the child along with his photograph online in the Child Adoption Resource Information and Guidance System.	Within three working days from the time of receiving the child.
3.	6(6)	District Child Protection Unit to advertise the particulars and photograph of an abandoned child in a state level newspaper having wide circulation and local cable networks, wherever existing.	Within three working days from the time of receiving the child.
4.	6(9)	District Child Protection Unit to submit a report to the Child Welfare Committee on the efforts made by it for tracing out the biological parents/legal guardian of an abandoned child, including the outcome of the particulars and photograph of the child in the newspapers.	Within 30 days from the date of production of the child before the Child Welfare Committee for the same.
5.	6(10)	Specialised Adoption Agency to submit a report to the Child Welfare Committee regarding the efforts made by it to trace the biological parent(s) or legal guardian of the abandoned child.	Immediately after 30 days from the date of production of the child before the Child Welfare Committee.
6.	7(17)	The reconsideration period/reclaiming of the surrendered child by the biological parent/legal guardian.	60 days of the date of surrender.
7.	7(18)	Specialised Adoption Agency to upload the Child Study Report and Medical Examination Report along with latest photograph of the child.	Within ten days from the date of declaration of the child as legally free for adoption by Child Welfare Committee.
8.	8(a)	A normal child up to 05 years of age to be available for adoption by a Resident Indian (RI) and NRI prospective adoptive parents.	For 60 days from the date the child is declared legally free for adoption by the Child Welfare Committee.
9.	8(b)	An older child above 5 years of age and siblings to be available for inter-country adoption.	After 30 days from the date the child is declared legally free for adoption by the Child Welfare Committee.
10.	8(c)	A mentally and physically challenged child to be available for inter-country adoption.	After 15 days from the date the child is declared legally free for adoption by the Child Welfare Committee.

**B. Timeline for Adoption by Resident Indians as well as Overseas Citizens of India/Foreigner living in India:**

Ser No	Regulation	Action	Time
1.	9(5)	The prospective adoptive parents should upload documents after their registration.	Within a stipulated period of thirty days.
2.	9(10)	Home Study Report of the prospective adoptive parents to be completed by the social worker.	Within 30 days from the date of submission of required documents in Child Adoption Resource Information and Guidance System.
3.	10(3)	Prospective adoptive parents to reserve one child	Within 48 hours from the date and time of referral.
4.	10(6) and 10(7)	Process of matching of the reserved child by the Specialised Adoption Agency and acceptance by prospective adoptive parents	Within 20 days from the date of reserving the child.
5.	12(1)	Specialised Adoption Agency to file application in the Court for obtaining adoption order from the Court	Within ten working days from the date of matching of the child by the prospective adoptive parents.
6.	12(6)	Disposal of the adoption petition by the Court	Within two months from the date of filing of the petition.
7.	12(8)	Specialised Adoption Agency to obtain a certified copy of the adoption order from the Court, to forward the same to the prospective adoptive parents and also to post the same in the Child Adoption Resource Information and Guidance System.	Within ten days from the date of adoption order.
8.	12(10)	Specialised Adoption Agency shall apply for the birth certificate and obtain the birth certificate of the child from the issuing authority.	Specialised Adoption Agency shall apply within 3 days from the date of issuance of the adoption order and it shall be issued by the authority within five days.

**C. Timeline for Adoption from India by Non-Resident Indian/Overseas Citizen of India/Foreign prospective adoptive parents:**

Ser No	Regulation	Action	Time
1.	15(7)	Reservation of one child by the prospective adoptive parents from Child Adoption Resource Information and Guidance System through the Authorised Foreign Adoption Agency/Central Authority /Government department/Indian Mission	Within 96 hours
2.	15(10)	Acceptance of the child by the prospective adoptive parents	Within 30 days
3.	16(1)	No Objection Certificate by CARA	Within ten days from the date of receipt of requisite documents including acceptance of the child by the prospective adoptive parents and approval of the Central Authority (CA).



Ser No	Regulation	Action	Time
4.	12(1) & 17(1)	Specialised Adoption Agency to file adoption petition in the Court	Within ten days from the date of receipt of No Objection Certificate from Central Adoption Resource Authority
5.	12(6)	Disposal of the adoption petition by the Court	Within two months from the date of filing of the petition.
6.	12(8)	Specialised Adoption Agency to obtain a certified copy of the adoption order from the Court, to forward the same to the prospective adoptive parents and also to post the same in the Child Adoption Resource Information and Guidance System.	Within ten days from the date of adoption order.
7.	18(1)	CARA shall issue conformity certificate under Article 23 of the Hague Adoption Convention.	Within three working days from the date of availability of adoption order.
8.	18(3)	Specialised Adoption Agency to submit application to the Regional Passport Officer (RPO) for the passport to the child.	Within three working days from the date of availability of adoption order.
9.	18(4)	Regional Passport Officer to issue the passport to the child	Within ten days from the date of receipt of application for the same.
10.	18(5)	The Specialised Adoption Agency shall approach the birth certificate issuing authority for birth certificate of the adopted child	Within a period of three days of obtaining of the certified copy of the adoption order.

**SCHEDULE XV**

[See regulation 47]

**FORMAT FOR QUARTERLY REPORTING OF ADOPTION DATA****BY SPECIALISED ADOPTION AGENCY (SAA)****FINANCIAL YEAR: \_\_\_\_\_**

Name of the Specialised Adoption Agency:

Address :

Landline :

Mobile :

Fax :

Email :

Part I	No of children placed in In-country Adoption(pre-adoption foster care)*			In-country Adoptions finalised by the Court #		
	Male	Female	Total	Male	Female	Total
1st Quarter (April– June)						
2nd Quarter (July – Sept)						
3rd Quarter (Oct – Dec)						
4th Quarter (Jan – March)						
Total						

Part II	Pre-Adoption Foster Care in case of inter-country Adoption*			Inter-country Adoptions finalised by the Court #		
	Male	Female	Total	Male	Female	Total
1st Quarter (April– June)						
2nd Quarter (July – Sept)						
3rd Quarter (Oct – Dec)						
4th Quarter (Jan – March)						
Total						

\*Pre-adoption foster care means, a child who has left the institution with his/her adoptive family during the particular period pending finalisation of adoption court order from the competent court.

# Adoptions completed means, adoption court order finalised during the particular period.

## SCHEDULE XVI

[See regulation 34 (12)]

**MONTHLY REPORT OF THE CHILD WELFARE COMMITTEE (CWC)  
TO THE STATE ADOPTION RESOURCE AGENCY  
AND CENTRAL ADOPTION RESOURCE AUTHORITY**

Name of the District: \_\_\_\_\_, State \_\_\_\_\_

Reporting Month\_\_\_\_\_, Year \_\_\_\_\_ Date of Report: \_\_\_\_\_

**PART-A: Information about children declared legally free for adoption and number of cases pending for decision.**

[illegible]

**PART-B: List of children declared legally free for adoption during the month of \_\_\_\_\_**

Ser No	Name of the Child	Date of Birth	Gender	Date of production before CWC and case no	Name and address of the Child Care Institution (CCI)/ Specialised Adoption Agency (SAA) which produced the child	Category (orphan/ abandoned/ surrendered)	Date of receipt of application in CWC from CCI/SAA for declaring the child legally free for adoption	Date on which declared legally free for adoption	Reasons for pending, if not cleared
--------	-------------------	---------------	--------	---	--	---	--	--	-------------------------------------

[**Note:** The above information shall be entered online in the Child Adoption Resource Information and Guidance System (CARINGS) by the respective SAA/DCPU and the DCPU concerned shall validate the same in the CARINGS on real time basis, through physical verification wherever required for further transmission to Child Welfare Committee). The DCPU shall be responsible for the data integrity].

**SCHEDULE XVII**

[See regulation 34(12)]

**FORMAT FOR REPORTING OF ADOPTION CASES**

**Part-I: Information regarding Adoption Cases in Child Adoption Resource Information and Guidance System (CARINGS) during the Month \_\_\_\_\_, Year \_\_\_\_\_**

Name of the Court \_\_\_\_\_, District \_\_\_\_\_, State \_\_\_\_\_

Ser No	No. of In-country relative adoptions under section 56(2) of Juvenile Justice Act, 2015	No. of In-country adoptions under section 58 of Juvenile Justice Act, 2015	No. of inter-country adoptions under section 59 of Juvenile Justice Act, 2015	No. of inter-country relative adoptions under section 60 of Juvenile Justice Act, 2015
	1	2	3	4

**Part-II: Details of Adoption cases:**

Ser No	Type of Adoptions done	Name of the child with gender and date of birth	Adoptive Parents with Child Adoption Resource Information and Guidance System Registration No.	Specialised Adoption Agency /Child Care Institution concerned and their address (wherever applicable)	Court concerned	Adoption petition Number	Date of filing of adoption petition	Date of adoption order
1	In-country adoptions under Section 56(2) of Juvenile Justice Act, 2015 (2 of 2016)							
	<b>Total</b>							

2.	In-country adoptions under Section 58 of Juvenile Justice Act, 2015 (2 of 2016)							
	<b>Total</b>							
3.	Inter-country adoptions under Section 59 of Juvenile Justice Act, 2015 (2 of 2016)							
	<b>Total</b>							
4.	Inter-country relative (family) Adoptions under Section 60 of Juvenile Justice Act, 2015 (2 of 2016)							
	<b>Total</b>							
	<b>Grand Total (1+2+3+4)</b>							

**Note:** Information at column 2 and 3 shall be posted by the Specialised Adoption Agency concerned and information related to paragraph 1 and 4 shall be posted by the adoptive parents online in the Child Adoption Resource Information and Guidance System (CARINGS).

### SCHEDULE XVIII

[See regulations 2 (21) and 48(3) ]

### CLASSIFICATION OF SPECIAL NEEDS CHILDREN FOR THE PURPOSE OF ADOPTION

#### A. Physical

1. Refractory or Severe Rickets (Bones)
2. Albinism (Genetic)
3. Birth Asphyxia
4. Blind or Partially Blind
5. Blood disorders (e.g., severe anaemia requiring blood transfusion)
6. Brain Lesions resulting in physical/ neurological or cognitive impairment (certified by paediatrician)
7. Burns (Skin)
8. Cancer
9. Cerebral Palsy
10. Chromosomal Abnormality (Genetic)
11. Chronic Asthma

12. Chronic Eczema
13. Cleft Lip-Cleft Palate or Cleft Lip
14. Club Feet
15. Colon Block
16. Colostomy
17. Deaf or Partially Deaf
18. Diabetes
19. Dislocated Hips
20. Dwarfism (Genetic)
21. Ectodermal dysplasia (no sweat glands)
22. Elephantitis
23. Fetal Alcohol Syndrome
24. Fingers/ toes joined (syndactyly)
25. Fingers-toes missing
26. Growth Hormone Deficiency
27. Haemophilia
28. Hare lip
29. Heart conditions of a severe nature
30. Hepatitis B+
31. Hernia
32. HIV
33. Hydrocephalus
34. Hypertonia
35. Ichthyosis (Collodion baby) (Skin)
36. Indeterminate sex (Genetic)
37. Leprosy Active
38. Limbs Missing
39. Low Birth Weight (under 1800 gms)
40. Microcephaly (Neurological)
41. No Anal Tract
42. Absence of one kidney- Physical
43. Urinary Tract Anomalies- Physical
44. One Testicle Missing
45. Chronic otitis media
46. Organs Missing
47. Person with disability
48. Pierre Robin Syndrome
49. Polio – Physical
50. Premature Birth (less than 34 weeks)
51. Retinal Detachment
52. Severe disfiguring birth marks
53. Severe Orthopaedic conditions
54. Speech dysfunction-dysphasia
55. Squint (Severe)
56. Stammering (only severe cases)

57. Stuttering (only severe cases)
58. Beta thalassemia, Thalassemia Major
59. Tumour
- B. Mental**
1. Autism certified by a paediatric neurologist or child psychologist
2. Child requiring psychiatric treatment
3. Speech impaired
4. Intellectual disability (certified by a paediatric neurologist or child psychologist)
5. Severe learning disability (certified by a paediatric neurologist or child psychologist)
6. Mental illness.
- C. Neurological**
1. Multiple Sclerosis
2. Paralysis
3. Spinal bifida
4. Epilepsy/ Seizures/Convulsions (not excluding febrile convulsions)
5. Any other neurological disorders as certified by paediatrician.
- D. Any other.** Any other child with disabilities as defined in The Rights of Persons with Disabilities Act, 2016.

**Note:** The categories of ailments listed in this Schedule (compiled with the help of panel of doctors, All India Institute of Medical Sciences) are illustrative and not exhaustive.

#### Schedule XIX

[See regulations 51(2) and 55(1)]

#### CONSENT FOR THE PURPOSE OF RELATIVE ADOPTION

- A.** I/We the undersigned have read the following statements carefully and I/we have information about the effects of my/our consent and I/we am/are making the statement without coercion or threat and without receiving any payment or compensation of any kind.

Biological Father	Biological Mother
Family name: .....	Family name: .....
First name: .....	First name: .....
Date of birth: day ....month ....year ...	Date of birth: day ....month ....year ...
Permanent Address: .....	Permanent Address: .....
.....	.....
I/We	
(i) hereby terminate the natural relationship with the child.	
(ii) understand that the adoption of this child will create a permanent and legal parent-child relationship with the adoptive parent(s).	
(iii) certify that the child has given his/her consent for the said adoption and willing to accept our relative as adoptive parents (wherever applicable).	
(iv) certify that our consent has not been induced by payment or compensation of any kind.	
(v) agree to place our child/children in adoption with our relative falling under the definition of section 2 (52) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016).	
Family name of the child: .....	



First name(s): ..... Sex: male <input type="checkbox"/> female <input type="checkbox"/> Date of birth: day ....month ....year.... Place of birth: ..... Address: ..... I/We declare that I/we have fully understood the above statements. Signed at ..... on..... <div style="text-align: center;"><b>(Signature or Thumb Impression of the biological parent(s))</b></div> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="text-align: center;"> <b>Biological Father</b>  <b>Note:-</b> Death Certificate of the biological parent to be attached in case he/she is not alive.         </div> <div style="text-align: center;"> <b>Biological Mother</b> </div> </div> <div style="margin-top: 10px;"> <b>B. Consent of the child, if he has completed five years of age</b>  <div style="text-align: center; margin-top: 10px;">Countersigned by Biological Parent(s)</div> </div>	
<b>C. Prospective Adoptive Parent(s) Adopting the Child/Children</b>	
<b>Adoptive Father</b> Family name: ..... First name(s): ..... Date of birth: day ....month ....year ... Permanent Address: ..... ----- Pre-adoption relationship with the child: _____	<b>Adoptive Mother</b> Family name: ..... First name(s): ..... Date of birth: day ....month ....year ... Permanent Address: ..... ----- Pre-adoption relationship with the child: _____

I/We, the undersigned:

- (i) give my/our consent to adopt the child/children mentioned at part A above, out of my/our free will.
- (ii) understand that the adoption of the child/children will create a permanent and legal parent-child relationship with me/us with all the rights and duties associated with such relationship.
- (iii) declare that I/we have fully understood the above statements.

Signed at ..... on.....

**(Signature or Thumb Impression of the prospective adoptive parent(s))**

**Adoptive Father**

**Adoptive Mother**

Photograph of biological parents	Photograph of child	Photograph of prospective adoptive parents
----------------------------------	---------------------	--

**D. Declaration by Witnesses**

I/We the undersigned have witnessed the above.

- (a) Signature, Name and Address of the first Witness with ID proof

.....  
 .....

- (b) Signature, Name and Address of the second Witness with ID proof

.....  
 .....

Signed at ..... on .....

(Photographs of the child/children to be adopted, the biological parents/guardians and the witnesses are required to be pasted and attested in front.)

## Schedule XX

[See regulation 52(2) and 55(2)]

**CONSENT OF BIOLOGICAL PARENT(S) ALONG WITH STEP-PARENT  
TO OBTAIN THE PERMISSION OF CHILD WELFARE COMMITTEE  
FOR ADOPTION OF CHILD/CHILDREN BY BIOLOGICAL PARENT  
AND THE STEP-PARENT**

**A. I/We the undersigned:**

<b>Biological Father</b>	<b>Biological Mother</b>
Family name: ..... First name: ..... Date of birth: day ....month ....year ... Permanent Address: ..... -----	Family name: ..... First name: ..... Date of birth: day ....month ....year ... Permanent Address: ..... -----
(i) hereby relinquish/surrender my/our natural right/claim with my/our child/children ----- --- (name, gender, date of birth). (ii) understand that the adoption of this child will create a permanent and legal parent-child relationship with the step-parent & the biological parent adopting the child. (iii) certify that the child/children has/have given his/her/their consent for the said adoption and is/are willing to accept the step-parent adopting the child/children as father/mother (strike out which is not applicable). (iv) certify that my/our consent above is given out of free will and has not been induced by payment or compensation of any kind. (v) declare that I/we have fully understood the above statements. Signed at ..... on..... <div style="text-align: center; margin-top: 10px;"> <b>(Signature or Thumb Impression of the biological parent(s))</b> </div> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="text-align: center;"> <b>Biological Father</b> </div> <div style="text-align: center;"> <b>Biological Mother</b> </div> </div>	
<b>B. Consent of the child /children at A (i), if completed five years of age before Child Welfare Committee.</b> Countersigned by Biological Parent(s)	
<b>C. Step Parent &amp; the Biological Parent Adopting the Child/Children.</b> Family name: ..... First name(s): ..... Date of birth: day ....month ....year ... Permanent Address: ..... We, the undersigned: (i) give our consent to adopt the child/children mentioned at A (i) above, out of our free will. (ii) understand that the adoption of the child/children will create a permanent parent-child relationship with all the rights and duties associated with such relationship. (iii) declare that we have fully understood the above statements. Signed at ..... on..... <div style="text-align: center; margin-top: 10px;"> <b>(Signature or Thumb Impression of the step-parent &amp; the biological parent)</b> </div> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="text-align: center;"> <b>Step-Parent</b> </div> <div style="text-align: center;"> <b>Biological Parent</b> </div> </div>	

**D. Declaration by Witnesses**

We, the undersigned have witnessed the above.

- (a) Signature, Name and Address of the first Witness with ID proof

.....  
 .....

- (b) Signature, Name and Address of the second Witness with ID proof

.....  
 .....

Signed at ..... on .....

**Note:-**

- (i) Death Certificate of the biological parent to be attached in case he/she is not alive.
- (ii) Photographs of the child/children to be adopted, the biological parent(s), spouse adopting the child/children and the witnesses are required to be pasted and attested in the form.
- (iii) In case children are being relinquished/surrendered by both the spouses from their respective earlier marriages for adoption, separate consent forms shall be filled up.
- (iv) As per regulation 5 (3), no child shall be given in adoption to a couple unless they have at least two years of stable marital relations.

Photograph of biological father/mother	Photograph of child	Photograph of step parent

**E. Certification of Child Welfare Committee.**

Based on the above consents and supporting documents, the Child Welfare Committee .....  
 (name of the District) hereby declares the child/children mentioned at A (i) as legally free for adoption by  
 ..... (step-parent) and ..... (one of the biological parents) only.

Signed at ..... on .....

Seal of Child Welfare Committee

Signature of three members of  
 Child Welfare Committee

**SCHEDULE XXI**

[See regulation 54(1)]

**FAMILY BACKGROUND REPORT OF THE CHILD AND THE BIOLOGICAL PARENTS IN CASES OF  
 INTER-COUNTRY RELATIVE ADOPTIONS**

**DATE OF HOME VISIT:****1. Personal particulars about the child**

- 1.1 Full name of the child:
- 1.2 Sex: ☐ Male ☐ Female
- 1.3 Date of birth (Birth Certificate of the child to be attached):
- 1.4 Place of birth:
- 1.5 Religion:
- 1.6 Language spoken (if applicable):
- 1.7 Order of birth in the family:
- 1.8 Present educational status:

- 1.9 Whether the child is able to express any feeling/opinion regarding his/her adoption? ☐ Yes ☐ No
- 1.10 If the child is above 5 years of age, written statement/ translation of statement of consent of the child for the proposed adoption by the social worker in English to be enclosed.
- 1.11 Disability/special needs (if any to be reflected in the Medical Examination Report)  
☐ Yes ☐ No
- 1.12 Whether the child has been counselled thoroughly about the effects of adoption?  
☐ Yes ☐ No ☐ NA (Not applicable in case the child is below 5 years old)
- 1.13 Whether the child knows about the legal termination of parent-child relationship due to the adoption? ☐  
Yes ☐ No (Not applicable in case the child is below 5 years old)
- 1.14 Who has provided counselling to the child?  
☐ Parent/s ☐ Guardian ☐ Child Welfare Committee ☐ Social Worker ☐ Teacher ☐ Uncle ☐ Aunt ☐ Sibling  
☐ Grandparent/s  
Any other (Specify)
- 1.15 General Personality and description of the child:
- 1.16 Social and educational background of the child:
2. **Details about the biological parents of the child or guardian of the child, as the case may be.**

Details of the father/guardian		Details of the mother/guardian	
Date of birth and age		Date of birth and age	
Religion		Religion	
Nationality		Nationality	
Present and Permanent Address		Present and Permanent Address	
Educational Qualifications		Educational Qualifications	
Present Occupation		Present Occupation	
Total income per month (proof to be given)		Total income per month (proof to be given) , if applicable	
Whether suffering from any disease (if yes, details to be given)		Whether suffering from any disease (if yes, details to be given)	

3. **Details about other family members living with the biological parents/guardians (Other individuals who reside in the household or outside)**

Name in full	Age/Sex	Occupation details	Marital status	Relationship to the child

**4. Opinion about the proposed adoption by each member of the family****5. Remarks of District Child Protection Unit:**

(The District Child Protection Unit is required to provide counselling to the biological parents about the effects of adoption, give reasons for proposing the child in adoption to a relative. Further, the District Child Protection Unit has to mention if the adoptive parents have already interacted with the child, if yes when, reason/s or motivation/s for adoption. District Child Protection Unit may also describe about home of the biological family, whether the parents of the child/ren are in touch with the prospective adoptive parents, and description of living accommodation and photograph of the child with adoptive family, etc.

**6. Whether the envisaged placement is in the best interests of the child:**

Signature with Stamp of the officer concerned from District Child Protection Officer

Address:

**Documents to be attached with the Report**

- Proof of residence of the biological family/guardian
- Proof of income of the biological family/guardian
- Proof of date of birth of the biological family/guardian
- Medical certificate in case the biological parent(s) have any medical condition
- Proof of date of birth of the child
- Medical Examination Report of the child to be adopted

**SCHEDULE XXII**

[See regulation 51(2)]

**PERMISSION BY CHILD WELFARE COMMITTEE TO THE CONSENT GIVEN BY THE GUARDIAN OF THE CHILD FOR ADOPTION BY HIS/HER RELATIVE (WHERE BIOLOGICAL PARENTS ARE NOT ALIVE/NOT ABLE TO GIVE CONSENT)**

I. I/We, the undersigned give the following declaration before the Child Welfare Committee (District-----):

Male Guardian	Female Guardian
Name .....	Name .....
Surname .....	Surname .....
Son of .....	Wife/daughter of.....
Date of birth: Day ...Month ..... Year.....	Date of birth: Day ... Month .... Year.....
Permanent Address.....	Permanent Address.....
Present Address: .....	Present Address: .....
<b>declare that:</b>	
<p>The child (name) ..... (Surname) ..... Sex: Male [ ] Female [ ],  Date of birth: Day ..... Month ..... Year....., Place of birth....., daughter/son of .....,  permanent resident of .....and presently residing at .....  ..... is under my/ our custody due to death of his/her  parents(both). The natural parent(s) of the above mentioned child/children is/are my/our .....  (please specify the relation and attach proof of supporting documents).</p> <p>I/We</p> <ol style="list-style-type: none"> <li>give consent to the surrender of the child named ----- to my/our relative for adoption;</li> <li>hereby terminate the legal guardian-ward relationship with the said child or children;</li> <li>understand that the said child shall be adopted by his/her relative residing in India or abroad;</li> <li>understand that the adoption of this child will create a permanent parent-child relationship with the adoptive parent(s);</li> <li>shall have no claim over the child;</li> <li>declare that I/we have fully understood the above statements carefully;</li> </ol>	

<p>(vii) have information about the effects of my/our consent;</p> <p>(viii) am/are making the statement without coercion or threat and without receiving any payment or compensation of any kind.</p> <p>Signed at ..... on.....</p> <p style="text-align: center;"><b>[Signature or Thumb Impression of the Guardian(s)]</b></p>
--

## II. Acceptance of child's relative adopting the child.

Adoptive Father	Adoptive Mother
Family name: .....	Family name: .....
First name(s): .....	Firstname(s): .....
Date of birth: day ....month ....year ...	Date of birth: day ....month ....year ...
Permanent	Permanent
Address: ..... .....	Address: ..... .....

I/We

- (i) accept and understand that the adoption of this child will create a permanent parent-child relationship with us.
- (ii) certify that the consent have not been induced by payment or compensation of any kind.
- (iii) declare that I/we have fully understood the above statements.

Signed at ..... on.....

**[Signature or Thumb Impression of the adoptive parent(s)]**

**Adoptive Father**

**Adoptive Mother**

## III. Declaration by Witnesses

I/we the undersigned know the guardian of the child/children very well and have witnessed the above statement of consent or surrender.

- (a) Signature, Name and Address of the first Witness

.....  
.....

- (b) Signature, Name and Address of the second Witness

.....  
.....

Photograph of the guardian	Photograph of child	Photograph of prospective adoptive parents
----------------------------	---------------------	--

## IV. Certification of Child Welfare Committee

Name (s): .....

Designation: .....

The Child Welfare Committee ..... hereby certifies that the person and the witness (es) named above appeared before the Committee and signed this document in our presence.

Signed at ..... on.....

**Signature and Seal  
Child Welfare Committee**



**SCHEDULE XXIII****[See regulation 12(11)]****AFFIDAVIT BY THE CHIEF FUNCTIONARY/AUTHORISED PERSON OF THE SPECIALISED ADOPTION AGENCY TO COURT IN SUPPORT OF ADOPTION OF CHILD \_\_\_\_\_**

1. Affidavit of \_\_\_\_\_ working as \_\_\_\_\_ in \_\_\_\_\_ located at \_\_\_\_\_
2. I do hereby state of solemn affirmation as under:
  - (a) That details of the child \_\_\_\_\_ (Name, gender and DOB) have been entered into the online Child Adoption Resource Information and Guidance System (CARINGS). The unique registration number assigned to the child through Child Adoption Resource Information and Guidance System (CARINGS) is \_\_\_\_\_.
  - (b) That the Child Welfare Committee \_\_\_\_\_ has declared the child as legally free for adoption on \_\_\_\_\_.
  - (c) That the child was referred to waiting Prospective adoptive parents in the online child referral system through Child Adoption Resource Information and Guidance System and the child has been accepted by the present prospective adoptive parents (Regd. No and Name) \_\_\_\_\_ following the procedure as provided in paragraph \_\_\_\_\_ of the Adoption Regulations.
  - (d) That the Home Study Report of the prospective adoptive parents, prepared by \_\_\_\_\_ is found to be suitable.
  - (e) That the Adoption Committee constituted under paragraph \_\_\_\_\_ of the Adoption Regulations has taken decision in favour of the proposed adoption and accordingly the adoption application has been filed in the Court \_\_\_\_\_.

Or

That No Objection Certificate for the proposed inter-country adoption has been issued by the Central Adoption Resource Authority (CARA) on dated ----- (strike out the one which is not applicable).

- (f) That the adoption procedure followed in this case complies Section \_\_\_\_\_ of the Juvenile Justice (Care and Protection of Children) Act 2015 and paragraph \_\_\_\_\_ of the Adoption Regulations.
- (g) That our organization \_\_\_\_\_ has been recognized by the State Government of \_\_\_\_\_ to run as a Specialised Adoption Agency vide no. \_\_\_\_\_ dated \_\_\_\_\_ which is valid till \_\_\_\_\_.
- (h) That the Specialised Adoption Agency has received adoption fee Rs. \_\_\_\_\_ only as stipulated by Central Adoption Resource Authority (CARA).
- (i) That I commit myself not to receive any donation in any form from the adoptive parents or their relatives or through their sponsoring agency during the adoption process or after completion of the adoption process.
- (j) That facts stated above are genuine to the best of my knowledge and belief and I do hereby declare that in case the facts mentioned above are found non-genuine, I shall be liable for the consequences.

**VERIFICATION**

That I \_\_\_\_\_, the deponent above, do hereby verify that the contents of the above affidavit are true and correct.

Verified at

Deponent

Sworn and signed before me

On \_\_\_\_\_

In my presence

**SCHEDULE XXIV**

[See regulation 51(4)]

**AFFIDAVIT OF PROSPECTIVE ADOPTIVE PARENT(S)****IN CASES OF IN-COUNTRY RELATIVE ADOPTIONS****IN SUPPORT OF THEIR RELATIONSHIP, FINANCIAL AND SOCIAL STATUS****AS PER SUB-REGULATION 4 of REGULATION 51**

Affidavit of Mr. \_\_\_\_\_ and Mrs. \_\_\_\_\_, resident of \_\_\_\_\_, about socio-economic and financial status to adopt the child \_\_\_\_\_ from the relative family Mr. \_\_\_\_\_ and Mrs. \_\_\_\_\_, residing at \_\_\_\_\_.

1. That I/we am/are Indian nationals residing in \_\_\_\_\_ since \_\_\_\_\_ years.
2. That the child proposed to be adopted is my \_\_\_\_\_ and fulfils the relationship criteria as provided in Section 2 (52) of the Juvenile Justice (Care and Protection of Children) Act 2015.
3. That my/our total annual income from all sources is \_\_\_\_\_ per annum, which is adequate to raise the child in our family in the local living standards where we reside.

**VERIFICATION**

That I/we \_\_\_\_\_, the deponent above, do hereby verify that the contents of the above affidavit are true and correct.

Verified at

Deponent

Sworn and signed before me on ----- in my presence

**Schedule XXV**

[See regulation 26(3)]

**FORMAT FOR INSPECTION OF SPECIALISED ADOPTION AGENCIES****1. Information about the Institution**

Name of the Institution: \_\_\_\_\_ Address of the Institution: \_\_\_\_\_

---



---



---



---

Telephone Number:

E-mail:

Name of the State:

Date of inspection:

Inspection Team:

Ser. No.	Name	Designation	Office
(a)			
(b)			
(c)			
(d)			
(e)			

Date of previous Inspection:

Done by:

## 2. Legal Status

Ser. No.	Registration / Recognition Status	
(a)	Registration No under Societies Registration Act 1860 (21 of 1860) or Indian Trusts Act; 1882 (2 of 1882) or Companies Act; 2013(18 of 2013) or Income Tax Act; 1961 (43 of 1961).	No. Date:
(b)	Registration as a Child Care Institution under Section 41 (1) of the Juvenile Justice (Care and Protection of Children) Act 2015 and its validity.	No. Validity period :
(c)	Recognition as a Specialised Adoption Agency for placing children in adoption under Section 65(1) of the Juvenile Justice (Care and Protection of Children) Act 2015.	No Validity period:
(d)	Foreign Contribution Regulation Act Registration No. if any and its validity	No. Validity period:

### 3. Staff

### 3.1 Staff of the Specialised Adoption Agency if getting grants under ICPS

Sanctioned Position	Name of the Staff	Date of joining	Qualifications and Experience
Manager/Coordinator (1)			
Social Worker cum Early Childhood Educator (1)			
Nurse (1)			
Doctor (Part time)			
Ayas (6)			
Watchman (1)			
Any other staff in the payroll of the Specialised Adoption Agency			
Name of the volunteer if any			

### 3.2 Staff of the Specialised Adoption Agency if not getting grants under ICPS

[illegible]

## 4. Committees in place

Committee	Meetings held during last financial year	Observations of the Inspecting Team
Managing Committee/Governing Body		
Adoption Committee		
Home Management Committee		
Any other Committee		

## 5. Documents and record keeping (Please put ✓ mark wherever required)

Records/Registers to be maintained by the Specialised Adoption Agency as per Adoption Regulations	Observations
(a) Master admission register (b) Attendance register of the children (c) Attendance register of the staff (d) Vouchers, cashbook, ledger, journal and annual accounts (e) Grant utilization register (f) Stock register (g) Record of minutes of meetings of the Management Committee (h) Record of minutes of meetings of the Adoption Committee	
Whether the case files maintained by the Specialised Adoption Agency contain documents as stipulated in <b>Schedule VIII</b> of the Adoption Regulations and Observation of the Inspecting Team?	

## 6. CARINGS &amp; Status of Children

## 6.1 Status of children in Child Adoption Resource Information and Guidance System (The Team may match actual status with the online data during the visit)

Name of the adoptable child in Specialised Adoption Agency and linked Child Care Institution	Male/ Female	DOB	Legally free for adoption with date	Adoptions in process	Pendency in Court for more than 2 months

**6.2 Status of legally free children in Child Adoption Resource Information and Guidance System (The Team may match actual status with the online data during the visit)**

No. of Children in Specialised Adoption Agency and the linked Child Care Institution	Photo uploaded	Child Report Study Report uploaded	Medical Examination Report uploaded	Child Welfare Committee Certificate uploaded	Remarks

**6.3 Pending post-adoption follow-up reports in Child Adoption Resource Information and Guidance System (The Team may match actual status with the online data during the visit)**

Children in Specialised Adoption Agency and the linked Child Care Institution	Court order uploaded	Post-adoption follow-up pending	Observations

**6.4 Cases of disruptions if any during last three years**

Year	At the stage of pre-adoption foster care before filing a petition	At the stage of pre-adoption foster-care after the petition has been filed in the court	After the adoption order is issued	Observations

**6.5 Pending status of Home Study Report beyond one month**

Cases where Home Study Report is pending beyond one month from the date of completion of registration	Reasons for the same	Observations of the Inspection Team

**7. Infrastructure**

**7.1 Building:**

(a) Rented: ----- Owned: -----

If rented, give details of rent paid per month and copy of rent agreement:

.....

(b) CCTV cameras installed at the entrance: Yes No

(c) Sufficient space to accommodate the children: Yes No

## 7.2 Space available

No. of rooms/dormitories	
Provision of sick room / medical unit	
Counselling room	
Recreational/activity room for Children	
(a) Is there a TV set available with Cable network?	Yes No
(b) How often are children allowed to view TV?	in the evenings or any time
(c) Are children playing games indoors?	Yes No
(d) What games are available to them?	Age appropriate games or not
(e) Are children playing games outdoors?	Yes No
(f) Do they have equipments/ accessories to play?	Yes No
(g) Do children go for picnics/excursions?	Yes No
(h) Do they have interactions with eminent personalities?	Yes No
(i) Is there a recreation room available to children?	Yes No
(j) Kitchen/Dining Room?	Yes No
(k) Is the cooking area and pantry separate?	Yes No
(l) Do children get individual plates, mugs glasses?	Yes No
(m) Are cooking utensils adequate and clean?	Yes No
(n) Is there a fridge available for children?	Yes No
(o) Is there an Oven available for children?	Yes No
(p) Is there a Gas stove available in kitchen?	Yes No
(q) Is there a chimney available?	safe/away from children or not
(r) What is the arrangement to keep the gas cylinders?	Yes No
(s) Adequate water supply for washing, cooking?	Yes No
(t) Adequate drinking water available	Manual or mechanical
(u) (RO)?	Yes No
(v) Is cooking done by machines or by cook?	Yes No
(w) Number of toilets and bathrooms for Children	Yes No
(x) Flush is working	Yes No
(y) Taps in the wash basin are functioning	Yes No
(z) Is the floor slippery	Yes No



(aa) Drains clean	Yes	No
(bb) Drains are clogged	Yes	No
(cc) Fittings for hanging clothes/ towels in place	Yes	No
(dd) Cow webs are removed	Yes	No
(ee) Door has a latch	Yes	No
(ff) Door has peep holes	Yes	No
(gg) Frequency of bath a child is allowed	once or more in a day	
(hh) Water is adequately available	Yes	No
(ii) Adequate numbers of buckets and mugs	Yes	No
(jj) Personal toiletries are provided	Yes	No
(kk) Is washing powder or soap given	Yes	No
(ll) Do children wash their own clothes	Yes	No
(mm) Is there a washer man available	Yes	No
(nn) Is the washing machine in functional	Yes	No
Open space for outdoor activities	<b>Observations:</b>	
Class rooms		

**7.3 Premises**

(a)	Does the home have a child friendly indoors?	Yes	No
(b)	How often is the sweeping, swabbing done? Twice a day or more		
(c)	Are the children involved in cleaning exercise during class hours?	Yes	No
(d)	Are the facilities of coolers/ heaters available for children?	Yes	No
(e)	Are the doors and windows maintained properly?	Yes	No
(f)	Are the rooms and dormitories well ventilated?	Yes	No
(g)	Is there an alternate provision for lights and fans when there is no electricity available?	Yes	No
(h)	Are the outdoors clean, pleasant and child friendly?	Yes	No

**7.4 Clothing/Bedding/Lockers/Toiletries provided to the children:**

(a)	Are the clothes provided as per size and season	Yes	No
(b)	Provisioning of undergarments as per JJ Rule 2016	Yes	No
(c)	New clothes are stitched or bought stitched or bought		
(d)	Are the mattresses given individually	Yes	No
(e)	Are pillows given individually	Yes	No
(f)	Are the mattress and pillows clean	Yes	No
(g)	Do children have separate cupboards	Yes	No
(h)	Are bed sheets and Khes available	Yes	No
(i)	Are blankets available in winters	Yes	No
(j)	Number of sets provided on arrival	one/two/three/four	
(k)	Frequency of providing new clothes	Monthly/ Quarterly	
(l)	Are these sets of same colour or different colours? Same/different		
(m)	Are children provided with individual lockers to keep their personal items ?	Yes	No

(n) Other articles provided to the children: .....

.....  
.....  
.....

#### 7.5 Services provided to the children:

(a) Medical facilities/Maintenance of Health Cards: .....

.....  
.....

(b) Nutrition/Special Diet: .....

.....  
.....

(c) Provision of safe drinking water: .....

.....

(d) Education (Formal Education/NFE and Life Skill Training Programme):

.....  
.....  
.....  
.....

(e) Counselling/ Guidance services provided: .....

.....  
.....

(f) Physiotherapy service available to children?

.....

(g) Recreational facilities available in the adoption agency for children:

.....  
.....

#### 7.6 Daily Routine of Children:

Time	Activities / Schedule
Morning	
Day Time	
Afternoon	
Evening	
Late evening/ Night	

#### 8. Linkages.

Linkages developed with other agencies/departments :

.....  
.....  
.....  
.....

#### 9. Connectivity and status in Child Adoption Resource Information and Guidance System and designated portal for missing child:

.....  
.....

**10. Funds /Grants received during last financial year:**

Fees for conducting Home Study and Post-adoption follow-up	Adoption fee	Grants from State Govt. under ICPS	Any other donations/ grants received

**11. Funds/Grants utilized during the last financial year**

Head-wise expenditure incurred	Amount	Observations of the Inspecting Team after examining vouchers, cheque or cash receipts and other relevant registers

**12. Bank details of the Specialised Adoption Agency.****13. Any best practice followed by the Specialised Adoption Agency.****14. Issues raised by the Specialised Adoption Agency related to delays in the adoption process, funds or any other issue related to adoption.****15. Observations and Recommendations of the Inspecting Team.****Signature of the Inspecting Officer**

(Name and Designation)

Signature of the Inspecting Officer

Name and Designation

Signature of the Inspecting Officer

Name and Designation

Signature of the Inspecting Officer

Name and Designation

**SCHEDULE XXVI**

[See regulation 23(1)]

**APPLICATION FROM A CHILD CARE INSTITUTION  
FOR RECOGNITION AS A SPECIALIZED ADOPTION AGENCY**

<b>1.</b>	<b>About the Institution:</b>	
1.1	Name of the Institution / Organization	
1.2	Registration number and date of Registration of the Institution/ Organization under the relevant Act (Relevant documents of registration and bye-laws, memorandum of association to be annexed)	
1.3	Registration number and date of Registration of the Institution/ Organization as a Child Care Institution (Annex copy of the Registration Certificate)	
1.4	Period of validity to run the Child Care Institution	

1.5	Complete address of the Applicant/ Institution/organization	
1.6	STD code/ Telephone No.	
1.7	STD code Fax No.	
1.8	E-mail address	
1.9	If the organization is of all India character, give address of its branches, in other states.	
1.10	<p>If the Child Care Institution had been denied recognition/registration as a Specialised Adoption Agency earlier? Yes/No</p> <p>If Yes</p> <p>(a) Ref. No. of application which resulted in denial of recognition as Child Care Institution:</p> <p>(b) Date of denial:</p> <p>(c) Which department has denied the recognition:</p> <p>(d) Reason for denial of recognition as Specialised Adoption Agency:</p>	
<b>2.</b>	<b>Infrastructure:</b>	
2.1	No. of Rooms (mention with measurement)	
2.2	No. of toilets (mention with measurement)	
2.3	No. of Kitchen (mention with measurement)	
2.4	No. of sick room	
2.5	Copy of blue print of the building (authentic sketch plan of building) to be attached	
2.6	<p>Arrangement to deal with unforeseen disaster; also mention the kind of arrangement made:</p> <p>(a) Fire</p> <p>(b) Earth quake</p> <p>(c) Any other arrangement</p>	
2.7	Arrangement of drinking water (certified from Public Health Engineering department to be annexed).	
2.8	<p>Arrangement to maintain sanitation and hygiene:</p> <p>(a) Pest Control</p> <p>(b) Waste disposal</p> <p>(c) Storage area</p> <p>(d) Any other arrangement</p>	
2.9	<p>Rent agreement/building maintenance estimate (whichever is applicable)</p> <p>(Annex: copy of Rent agreement)</p>	
<b>3.</b>	<b>Capacity of the Institution/Organization</b>	
	No. of children (0-5, 5-11 and 11-18 years) present in the home	

<b>4.</b>	<b>Facilities Available for children</b>	
4.1	Educational facility	
4.2	Health Check-up arrangement, frequency of check-up, type of check-ups proposed to be done	
4.3	Any other facility having impact on the overall development of the child	
<b>5.</b>	<b>Staffing</b>	
5.1	Detailed staff list(to be annexed)	
5.2	Name of partner organizations	
<b>6.</b>	<b>Background information about the Child Care Institution</b>	
6.1	Major activities of the organization in last two years (Annex copy of Annual Report for last two years)	
6.2	An updated list of members of the management committee/governing body (Please annex resolution of the executive body of the institution supporting decision to run an adoption agency)	
6.3	List of assets/infrastructure of the organization (to be Annexed)	
6.4	If the organization registered under the Foreign Contribution (Regulation) Act, 1976 (49 of 1976) (Certificate to be annexed)	
6.5	Details of foreign contribution received last two years (Annex: relevant documents)	
6.6	List of other sources of grant-in-aid funding (if any) with the name of the scheme/project, purpose amount, etc.	
6.7	Details of existing bank account of the agency indicating branch code account number.	
6.8	Whether the institution agrees to open a separate bank account for the grant proposed	

I have read and understood The Juvenile Justice (Care and Protection of Children) Act, 2015(2 of 2016) and the Juvenile Justice (Care and Protection of Children) Model Rules, 2016.

I declare that no person associated with the organization has been previously convicted or has been involved in any immoral act or in any act of child abuse or employment of child labour and that the organization has not been blacklisted by the Central or the State Government at any point of time.

\_\_\_\_\_ (Name of the Organization/Institution) has complied with all the requirements to be registered as a Specialized Adoption Agency under the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) and The Juvenile Justice (Care and Protection of Children) Rules, 2016.

I undertake to regularly update data on Child Adoption Resource Information and Guidance System (CARINGS) and to have facilities for the same.

I undertake to abide by all the conditions laid down by the Central/State Act, Rules, Adoption Regulations and notifications in this regard.

Signature of the authorized signatory: \_\_\_\_\_

Name:

Designation:

Address:

District:

Date:

Office stamp:

Signature of:

Witness no.1: \_\_\_\_\_

Witness no.2: \_\_\_\_\_

## SCHEDULE XXVII

[See regulation 10(4)]

### FORMAT OF MINUTES OF THE ADOPTION COMMITTEE IN CASE OF IN-COUNTRY ADOPTION

#### Name and Address of the Specialised Adoption Agency:

- Following are the members of the Adoption Committee as per sub-regulation 4 of regulation 10 of the Adoption Regulations notified by Central Government.

Ser No	Name	Designation
(1)		
(2)		
(3)		

[In case of adoption through Specialised Adoption Agency-Child Care Institution linkage, the members would be in accordance with regulation 58 (8) of the Adoption Regulations. The quorum of the Committee shall be as per para 10 (5) of the regulations]

- The undersigned members of the Committee have scrutinised all requisite documents (attested/notarised) required for filing adoption application in the Court as mentioned below:
  - Current family photograph/Photograph of person adopting a child.
  - PAN Card of the parents.
  - Birth certificate/Proof date of birth of the parents (In case of married couple, upload Birth Certificate of both the applicants).
  - Proof of residence (aadhar card/ voter card/ passport/current electricity bill/telephone bill).
  - Proof of income of last year (salary slip/income certificate issued by Govt. department/income tax return).
  - Certificate from a medical practitioner certifying that the prospective adoptive parents do not suffer from any chronic, contagious or fatal disease and they are fit to adopt (In case of married couple, upload Medical Certificate of both the applicants).
  - Marriage certificate/Divorce Decree/Declaration from the competent court or affidavit on oath pertaining to divorce in case of divorce governed by personal law where decree of divorce is not mandatory/Death certificate of spouse whichever is applicable.
  - Two reference letters from acquaintances or relatives in support of adoption.



- (9) Copy of divorce decree/Declaration from the competent court or affidavit on oath pertaining to divorce in case of divorce governed by personal law where decree of divorce is not mandatory/death certificate of the spouse (if applicable).
- (10) Copy of consent of the older child/children in the family (if more than 5 years).
3. Decision of the Adoption Committee.
- (1) It has been decided by the Committee that the Prospective Adoptive Parents.....  
..... having Registration No .....  
have been considered suitable to adopt the child ..... (Date of Birth.....)  
having Registration No .....
- (2) In case the prospective adoptive parents are not considered suitable, reasons for the same:  
(.....) (.....) (.....)

**Member 1****Member 2****Member 3**

(Name and Designation)

(Name and Designation)

(Name and Designation)

**SCHEDULE XXVIII****[See regulation 12(2)]****MODEL APPLICATION IN CASE OF ORPHAN OR ABANDONED OR SURRENDERED CHILD(REN) TO COURT FOR IN-COUNTRY ADOPTION**

In the Court of \_\_\_\_\_ Ld. District Judge/Addl. District Judge, District Court/Principal Judge/Judge, Family Court or Civil Judge/Addl. Civil Judge(Senior Division), as the case may be, at \_\_\_\_\_.

Misc. Civil Application (MCA) No. \_\_\_\_\_/Year

Child Adoption Resource Information and Guidance System Regd. Number of prospective adoptive parents:

Name of the Specialised Adoption Agency concerned:

Registered Office at:

Through its Adoption In-charge/Social Worker (name and age)

**Applicant**

(Note: In case the child is from a Child Care Institution, the particulars of such Child Care Institution may be mentioned here as co-applicant)

**AND**

1. Mr. \_\_\_\_\_ S/o \_\_\_\_\_ Aged about \_\_\_\_\_ years, Citizen of \_\_\_\_\_  
\_\_\_\_\_, Occupation: \_\_\_\_\_ Permanent Residential address: \_\_\_\_\_.
2. Mrs. \_\_\_\_\_ W/o \_\_\_\_\_ Aged about \_\_\_\_\_ years, Citizen of \_\_\_\_\_  
\_\_\_\_\_, Occupation: \_\_\_\_\_ Permanent Residential Address: \_\_\_\_\_.

**Prospective Adoptive Parents**

Application in the matter of adoption of the child: \_\_\_\_\_ (male/female, DOB: \_\_\_\_\_) under section 58 (3) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) read with regulation 12 (2) of the Adoption Regulations.

**The Applicant most respectfully submits before this Hon'ble Court as under:-**

1. That the Applicant is a recognised Specialised Adoption Agency under Section 65 of the Juvenile Justice (Care and Protection of Children), 2015 (hereinafter referred to as "Juvenile Justice Act") by the State Government of \_\_\_\_\_, for rehabilitating orphan, abandoned and surrendered children through adoption in accordance with the provisions of the Juvenile Justice Act and Adoption Regulations.
2. That the Co-Applicant is a registered Child Care Institution, which is having the care and custody of the child: (male/female; DOB: ..... ) intends to give this child in adoption to the above named prospective adoptive parents through the applicant Specialised Adoption Agency as per the provision of Section 66 of the Juvenile Justice Act.

[Note: This paragraph would be mentioned in case the Adoption Application is being filed in a linkage case.]

3. The child/children..... (male/female, DOB:.....) has/have been declared legally free for adoption by the Child Welfare Committee (Child Welfare Committee), ..... District (copy of order annexed), as per the provisions of section 38 of the Juvenile Justice Act and the said child is registered in the Child Adoption Resource Information and Guidance System with the Registration No....., for the purpose of adoption as envisaged in section 56 (1) of the Juvenile Justice Act.
4. That, the above named prospective adoptive parents are resident Indians, presently living at ..... (complete address). The prospective adoptive parents are registered in the Child Adoption Resource Information and Guidance System with the Registration No. .... They have been found eligible and suitable to adopt the above named child/children as per the criteria mentioned in section 57 of the Juvenile Justice Act and regulation 5 of the Adoption Regulations, based upon their Home Study Report annexed. They have been found suitable by the Adoption Committee to adopt the above named child. A true copy of the decision of the Adoption Committee is also annexed.
5. That the above named child/children has/have been referred to the said prospective adoptive parents online through Child Adoption Resource Information and Guidance System and has been accepted by the said prospective adoptive parents by signing the Child Study Report and Medical Examination Report on ..... The child/children has/have been given in pre-adoption foster care to the said prospective adoptive parents on ....., after obtaining a Pre-adoption Foster Care Affidavit (true copy annexed), as per the provisions of Section 58 (3) of Juvenile Justice Act and regulation 11 (1) of the Adoption Regulations.
6. That the prospective adoptive parents have undertaken in the said Pre-adoption Foster Care Affidavit that they will allow the authorised social worker/functionary of the Specialised Adoption Agency/District Child Protection Unit/State Adoption Resource Agency to visit their home for undertaking post-adoption follow up to ascertain the progress and well-being of the child in the adoptive family [as envisaged under Section 58 (5) of Juvenile Justice Act].
7. That the prospective adoptive parents have further undertaken to inform that any change in the place of their residence (other than as stated in this application), to the Applicant(s), State Adoption Resource Agency concerned and to this Court for the purpose of post adoption follow-up.
8. That the prospective adoptive parents have also undertaken to up-bring the said child/children as their own and to accord the same status/rights/privileges to the child/children at par with the natural born child as provided in pre-adoption foster care affidavit annexed with the Application.
9. That the Applicant/Co-applicant have decided to place the child/children in adoption as per decision of the Adoption Committee vide its meeting dated..... (copy Annexed).
10. That the conditions laid down in section 61 (1) of the Juvenile Justice Act have been complied with in this adoption case.
11. That the giver (s) and taker (s) have no interest directly or indirectly adverse to that of the child/children.
12. The applicant (s) are within the jurisdiction of this Hon'ble Court and hence this Hon'ble Court has jurisdiction to pass Adoption Order as per the provisions of section 2 (23), 58 (3) and 61 of the Juvenile Justice Act.
13. That the Applicants understand that the adopted child shall become the lawful child of the applicants with all the rights, privileges and responsibilities that are attached to a biological child.
14. That the Applicant(s) have not filed any other Application for the adoption of the said child in any other Court of Law.
15. That the prescribed court fees have been paid and affixed on this Application.
16. **The Applicant(s), therefore, pray that :**
  - (a) That the above named Prospective Adoption Parents may please be given the said child/children in adoption and be declared as the parents of the said minor for all purposes allowed by the law.
  - (b) The Birth Certificate Issuing Authority (name and place) may please be directed to issue Birth Certificate for the said child/children within five working days from the date of application, as per the provisions of regulation 36 of the Adoption Regulations.

Place:

APPLICANT NO. 1

Date:

APPLICANT NO. 2

Photograph of the child	Photograph of the adoptive parent(s)
-------------------------	--------------------------------------

**VERIFICATION**

I/We, (1) Mr/Mrs....., aged about \_\_\_\_\_, Adoption In-charge/Social Worker of Applicant No. 1 (and Mr/Mrs....., aged about \_\_\_\_\_, Superintendent/Manager/Director of the Applicant No. 2), do hereby state on oath and solemnly affirm that the contents of this Application are true and correct to the best of my/our knowledge and belief and the information and documents presented with this Application are genuine. In witness whereof we have signed the same at ..... on this..... day of.....

Applicant No.1

Applicant No. 2

**Index**

Ser No	Documents to be annexed as provided in Schedule IX of the Adoption Regulations	Reference	Page No.

**SCHEDULE XXIX****[See regulation 12(2)]****MODEL APPLICATION IN CASE OF ORPHAN OR ABANDONED OR SURRENDERED CHILD(REN) TO COURT FOR INTER-COUNTRY ADOPTION**

In the Court of Mr/Ms \_\_\_\_\_, Ld. District Judge/Addl. District Judge, District Court/Principal Judge/Judge, Family Court or Civil Judge/Addl. Civil Judge(Senior Division), as the case may be, at \_\_\_\_\_.

Misc. Civil Application (MCA) No. \_\_\_\_\_/2016

Child Adoption Resource Information and Guidance System Regd. Number of prospective adoptive parents:

Name of the Specialised Adoption Agency concerned:

Registered Office at:

Through its Adoption In-charge/Social Worker (name and age)

**Applicant**

(Note: In case the child is from a Child Care Institution, the particulars of such Child Care Institution may be mentioned here as co-applicant)

**AND**

1. Mr. \_\_\_\_\_ S/o \_\_\_\_\_ Aged about \_\_\_\_\_ years, Citizen of \_\_\_\_\_, Occupation: \_\_\_\_\_ Permanent Residential Address: \_\_\_\_\_.
2. Mrs. \_\_\_\_\_ W/o \_\_\_\_\_ Aged about \_\_\_\_\_ years, Citizen of \_\_\_\_\_, Occupation: \_\_\_\_\_ Permanent Residential Address \_\_\_\_\_.

**Prospective Adoptive Parents**

Application in the matter of adoption of the child:..... (male/female, DOB:.....) under section 59(7) of the Juvenile Justice Act(2 of 2016) and regulations 12(2) and 17(1) of Adoption Regulations.

**The Applicant most respectfully submits before this Hon'ble Court as under:**

1. That the Applicant is a recognised Specialised Adoption Agency under Section 65 of the Juvenile Justice (Care and Protection of Children), 2015(2 of 2016) (hereinafter referred to as "Juvenile Justice Act") by the State Government of \_\_\_\_\_, for rehabilitating orphan, abandoned and surrendered children through adoption in accordance with the provisions of the Juvenile Justice Act and Adoption Regulations.
2. That the Co-Applicant is a registered Child Care Institution, which is having the care and custody of the child: (male/female; DOB:.....) intends to give this child in adoption to the above named Prospective Adoption Parents through the applicant Specialised Adoption Agency as per the provision of section 66 of the Juvenile Justice Act.

[Note: This paragraph would be mentioned in case the Adoption Application is being filed in a linkage case.]

3. The child/children..... (male/female, DOB:.....) has/have been declared legally free for adoption by the Child Welfare Committee, .....District (copy of order annexed), as per the provisions of section 38 of the Juvenile Justice Act and the said child is registered in the Child Adoption Resource Information and Guidance System with the Registration No....., for the purpose of adoption as envisaged in section 56 (1) of the Juvenile Justice Act.

4. That, the above named prospective adoptive parents (PAPs) are Non-Resident Indians (NRI)/Overseas Citizens of India (OCI)/Foreigner, presently living at ..... (complete address).
5. That the prospective adoptive parents have been found eligible and suitable to adopt by the Authorised Foreign Adoption Agency (AFFA)/Central Authority (CA) (name and address), based upon their Home Study Report annexed and as per the law of the country of their residence. The proposal of prospective adoptive parents to adopt a child from India has been recommended by the said Authorised Foreign Adoption Agency and has been approved by the Central Authority concerned.
6. The prospective adoptive parents have been registered in the Child Adoption Resource Information and Guidance System with the Registration No ..... by said Authorised Foreign Adoption Agency/Central Authority. They have been found eligible by the Central Adoption Resource Authority (CARA) as per the criteria mentioned in section 57 of the Juvenile Justice Act and regulation 5 of the Adoption Regulations.
7. That the above named child/children has been referred to the said prospective adoptive parents online in Child Adoption Resource Information and Guidance System through the Authorised Foreign Adoption Agency /CA concerned and has been accepted by the said prospective adoptive parents by signing the Child Study Report and Medical Examination Report on .....
8. That Central Adoption Resource Authority has issued No Objection Certificate on ..... in favour of the proposed adoption.
9. That the prospective adoptive parent(s) have undertaken through the Authorised Foreign Adoption Agency/Central Authority concerned that they will allow the authorised social worker/functionary of the Authorised Foreign Adoption Agency/Central Authority/concerned Government department to visit their home for undertaking post-adoption follow up to ascertain the progress and well-being of the child in the adoptive family, as envisaged under section 59 (11) of the Juvenile Justice Act.
10. That the prospective adoptive parents have also undertaken to up-bring the said child/children as their own and to accord the same status/rights/privileges to the child/children at par with the natural born child.
11. That the Applicant/Co-applicant want(s) to give the above named child/children and the said prospective adoptive parents have given their consent to take the child/children in adoption.
12. That the conditions laid down in section 61 (1) of the Juvenile Justice Act have been complied with in this adoption case.
13. That the giver(s) and taker(s) have no interest directly or indirectly adverse to that of the child/children.
14. The above named child is within the legal jurisdiction of this Hon'ble Court and hence this Hon'ble Court has jurisdiction to pass Adoption Order as per the provisions of sections 2 (23), 59 (7) and 61 of the Juvenile Justice Act.
15. That Central Adoption resource Authority (CARA) has issued No Objection Certificate (NOC) for the proposed adoption as provided in regulation 16 of the Adoption Regulations.
16. That the Applicants understand that the adopted child shall become the lawful child of the applicants with all the rights, privileges and responsibilities that are attached to a biological child.
17. That the Applicant(s) have not filed any other Application for the adoption of the said child in any other Court of Law.
18. That the prescribed court fees have been paid and affixed on this Application.
19. **The Applicant(s), therefore, pray that:**
  - (a) The above named prospective adoption parents may please be declared as parents of the said child/children for all purposes allowed by the law and may be allowed to be taken to the country of their residence for upbringing the child/children as their own child.
  - (b) The Birth Certificate Issuing Authority (name and place) may please be directed to issue Birth Certificate for the said child/children within five working days from the date of application, as per the provisions of sub-regulation (5) of regulations 18 and regulation 36.
  - (c) The Regional Passport Office (RPO) concerned may be directed to issue Passport for the said child/children within ten days from the date of application, as per sub-regulation (4) of regulation 18 and regulation 38.

Place:

APPLICANT NO. 1

Date:

APPLICANT NO. 2

Photograph of the child	Photograph of the adoptive parent(s)
-------------------------	--------------------------------------

**VERIFICATION**

I/We, (1) Mr/Mrs ....., aged about \_\_\_\_\_, Adoption In-charge/Social Worker of Applicant No. 1 (and Mr/Mrs ....., aged about \_\_\_\_\_, Superintendent/Manager/Director of the Applicant No. 2), do hereby state on oath and solemnly affirm that the contents of this Application are true and correct to the best of my/our knowledge and belief and the information and documents presented with this Application are genuine. In witness whereof we have signed the same at ..... on this..... day of..... .

Applicant No.1

Applicant No. 2

**Index**

Ser No.	Documents to be annexed as provided in Schedule IX of the Adoption Regulations	Reference	Page No.

**SCHEDULE XXX****[See regulation 51 (5)]****MODEL APPLICATION TO COURT FOR IN-COUNTRY RELATIVE ADOPTION**

In the Court of \_\_\_\_\_ Ld. District and Sessions Judge/Addl. District and Sessions Judge, District Court/Principal District Judge, Family Court or Civil Judge/Addl. Civil Judge(Senior Division), as the case may be, at \_\_\_\_\_.

Misc. Civil Application (MCA) No. \_\_\_\_\_/Year.

Child Adoption Resource Information and Guidance System Regd. Number of prospective adoptive parents:

1. Mr. \_\_\_\_\_ S/o \_\_\_\_\_ Aged about \_\_\_\_\_ years, Citizen of \_\_\_\_\_, Occupation: \_\_\_\_\_ Permanent Residential address: \_\_\_\_\_ P.S. \_\_\_\_\_, Dist. \_\_\_\_\_ State \_\_\_\_\_;
2. Mrs. \_\_\_\_\_ W/o \_\_\_\_\_ Aged about \_\_\_\_\_ years, Citizen of \_\_\_\_\_, Occupation: \_\_\_\_\_ Permanent Residential Address: \_\_\_\_\_ P.S. \_\_\_\_\_, Dist. \_\_\_\_\_ State \_\_\_\_\_.

**Applicants**

Prospective Adoptive Parent(s)

**AND**

3. Mr. \_\_\_\_\_ S/o \_\_\_\_\_ Aged about \_\_\_\_\_ years, Citizen of \_\_\_\_\_, Occupation: \_\_\_\_\_ Permanent Residential address: \_\_\_\_\_;
4. Mrs. \_\_\_\_\_ W/o \_\_\_\_\_ Aged about \_\_\_\_\_ years, Citizen of \_\_\_\_\_, Occupation: \_\_\_\_\_ Permanent Residential Address: \_\_\_\_\_.

**Natural /biological Parents**

Application in the matter of adoption of the child:..... (male/female, DoB:.....) under section 56 (2) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) read with regulation 51 and 55 of the Adoption Regulations .

**The Applicants most respectfully submit before this Hon'ble Court as under:-**

1. That the Applicants are prospective adoptive parents and relative to natural /biological parents of the child \_\_\_\_\_ (male/female) under section 2 (52) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) (hereinafter referred to as "Juvenile Justice Act").
2. That the Applicants are paternal uncle or aunt, or a maternal uncle or aunt, or paternal grandparent or maternal grandparents of the child \_\_\_\_\_.
3. That the Applicants are resident of \_\_\_\_\_.
4. That the child \_\_\_\_\_ was born to the natural parents on \_\_\_\_\_ and they are resident of \_\_\_\_\_.
5. That the natural parents are desirous of placing the child in adoption for the reason \_\_\_\_\_.

6. That prospective adoptive parents are desirous of adopting the child for the reason \_\_\_\_\_.
7. That the Applicants and the natural parents have given consent to the proposed adoption which is annexed with the Application. (In case the natural parents are not alive, document related to permission for adoption from the Child Welfare Committee would be annexed as provided in the Adoption Regulations).
8. That the child proposed to be adopted is a minor (below five years) who is not able to express his/her views.

Or

That the child proposed to be adopted has also given his /her consent for the said adoption and is willing to accept the Applicants as parents.

9. That the adoption of the child by the applicants from the natural parents would be in the paramount welfare of the child and the applicant(s) would treat the child as their own with all rights and responsibilities.
10. That neither the applicants have given or agreed to give, nor have the natural parents or guardians of the child received or agreed to receive any payment or reward in consideration of the adoption.
11. That the conditions laid down in section 61 (1) of the Juvenile Justice Act have been complied with in the case of proposed adoption.
12. That the giver(s) and taker(s) have no interest directly or indirectly adverse to that of the child/children.
13. The child ordinarily resides within the jurisdiction of this Hon'ble Court and hence this Hon'ble Court has jurisdiction to pass Adoption Order as per the provisions of section 61 of the Juvenile Justice Act.
14. That the Applicant(s) have not filed any other Application for the adoption of the said child in any other Court of Law.
15. That the Applicants understand that the adopted child shall become the lawful child of the applicants with all the rights, privileges and responsibilities that are attached to a biological child.
16. That the prescribed court fees have been paid and affixed on this Application.
17. **The Applicant(s), therefore, pray that:**
  - (a) That the above named child may please be given in adoption to them and be declared as the parents of the said minor for all purposes allowed by the law.
  - (b) The Birth Certificate Issuing Authority (name and place) may please be directed to issue Birth Certificate for the said child/children within five working days from the date of application, as provided in regulation 36 of the Adoption Regulations.

Place:

APPLICANTS

Date:

Photograph of the biological parent(s)	Photograph of the child	Photograph of the adoptive parent(s)

### VERIFICATION

I/We, Mr/Mrs....., aged about \_\_\_\_\_, (Applicant(s)) and I/we, Mr/Mrs....., aged about \_\_\_\_\_ (Natural parents/guardian), do hereby state on oath and solemnly affirm that the contents of this Application are true and correct to the best of my/our knowledge and belief and the information and documents presented with this Application are genuine. In witness whereof we have signed the same at ..... on this..... day of..... .

Applicants

Natural parents/guardians

### Index

Ser No.	Documents to be annexed as provided in Schedule VI of the Adoption Regulations	Reference	Page No.



**SCHEDULE XXXI****[See regulation 55(3)]****MODEL APPLICATION TO COURT FOR INTER-COUNTRY RELATIVE ADOPTION**

In the Court of \_\_\_\_\_ Ld. District and Sessions Judge/Addl. District and Sessions Judge, District Court/Principal District Judge, Family Court or Civil Judge/Addl. Civil Judge (Senior Division), as the case may be, at \_\_\_\_\_.

Misc. Civil Application (MCA) No. \_\_\_\_\_/Year.

Child Adoption Resource Information and Guidance System Regd. Number of prospective adoptive parents:

1. Mr. \_\_\_\_\_ S/o \_\_\_\_\_ Aged about \_\_\_\_\_ years, Citizen of \_\_\_\_\_, Occupation: \_\_\_\_\_ Permanent Residential address: \_\_\_\_\_ P.S. \_\_\_\_\_, Dist. \_\_\_\_\_ State \_\_\_\_\_;
2. Mrs. \_\_\_\_\_ W/o \_\_\_\_\_ Aged about \_\_\_\_\_ years, Citizen of \_\_\_\_\_, Occupation: \_\_\_\_\_ Permanent Residential Address: \_\_\_\_\_ P.S. \_\_\_\_\_, Dist. \_\_\_\_\_ State \_\_\_\_\_

**Applicant(s)**

Prospective Adoptive Parent(s)

**AND**

3. Mr. \_\_\_\_\_ S/o \_\_\_\_\_ Aged about \_\_\_\_\_ years, Citizen of \_\_\_\_\_, Occupation: \_\_\_\_\_ Permanent Residential address: \_\_\_\_\_;
4. Mrs. \_\_\_\_\_ W/o \_\_\_\_\_ Aged about \_\_\_\_\_ years, Citizen of \_\_\_\_\_, Occupation: \_\_\_\_\_ Permanent Residential Address: \_\_\_\_\_.

**Natural /biological Parents**

Application in the matter of adoption of the child:..... (male/female, DoB:.....) under section 60 (1) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) read with regulations 53, 54 and 55 of the Adoption Regulations.

**The Applicants most respectfully submit before this Hon'ble Court as under:-**

1. That the Applicants are prospective adoptive parents and relative to natural /biological parents of the child \_\_\_\_\_ (male/female) under section 2(52) of the Juvenile Justice (Care and Protection of Children Act, 2015 (2 of 2016) (hereinafter referred to as "Juvenile Justice Act").
2. That the Applicants are paternal uncle or aunt, or a maternal uncle or aunt, or paternal grandparent or maternal grandparents of the child \_\_\_\_\_.
3. That the Applicants are resident of \_\_\_\_\_.
4. That the child \_\_\_\_\_ was born to the natural parents on \_\_\_\_\_ and they are resident of \_\_\_\_\_.
5. That the natural parents are desirous of placing the child in adoption for the reason \_\_\_\_\_.
6. That prospective adoptive parents are desirous of adopting the child for the reason \_\_\_\_\_.
7. That the Applicants and the natural parents have given consent to the proposed adoption which is annexed with the Application.(In case the natural parents are not alive, document related to permission for adoption from the Child Welfare Committee would be annexed as provided in the Adoption Regulations.
8. That the child proposed to be adopted is a minor (below five years) who is not able to express his/her views.

**Or**

That the child proposed to be adopted has also given his /her consent for the said adoption and is willing to accept the Applicants as parents.

9. That the adoption of the child by the Applicants from the natural parents would be in the paramount welfare of the child and the Applicant(s) would treat the child as their own with all rights and responsibilities.
10. That neither the Applicants have given or agreed to given, nor have the natural parents or guardians of the child received or agreed to receive any payment or reward in consideration of the adoption.

11. That the Applicants have been found eligible and suitable to adopt the relative's child as provided in section 2 (52) of the Juvenile Justice (Care and Protection of Children Act, 2015 (2 of 2016).
12. That the family background report of the child has been conducted by the District Child Protection Unit (DCPU) where the child ordinarily resides with the natural family and the District Child Protection Unit has furnished its report as per regulation 54 (2) and (3) of the Adoption Regulations which is annexed hereto this application.
13. That the receiving country of the child where the Applicants ordinarily reside have issued necessary certificate or permission in accordance with Article 5/17 of the Hague inter-country Adoption for the adoption to proceed as per sub-regulation 5 of the regulation 54 which is annexed here to this application.
14. That the conditions laid down in section 61 (1) of the Juvenile Justice Act (2 of 2016) have been complied with in the case of proposed adoption.
15. That the giver(s) and taker(s) have no interest directly or indirectly adverse to that of the child/children.
16. The child ordinarily resides within the jurisdiction of this Hon'ble Court and hence this Hon'ble Court has jurisdiction to pass Adoption Order as per the provisions of section 61 of the Juvenile Justice Act (2 of 2016).
17. That the Applicant(s) have not filed any other Application for the adoption of the said child in any other Court of Law.
18. That the Applicants understand that the adopted child shall become the lawful child of the applicants with all the rights, privileges and responsibilities that are attached to a biological child.
19. That the prescribed court fees have been paid and affixed on this Application.
20. **The Applicant (s), therefore, pray that:**
  - (a) The above named prospective adoptive parents may be declared as the parents of the said minor for all purposes allowed by the law.
  - (b) The Birth Certificate Issuing Authority (name and place) may please be directed to issue Birth Certificate for the said child/children within five working days from the date of application, as per the provisions of regulation 36 of Adoption Regulations.
  - (c) The Regional Passport Office (RPO) concerned may be directed to issue Passport for the said child/children within ten days from the date of application, as per the provisions of sub regulation 4 of regulations 18 and regulations 38 of Adoption Regulations.

Place:

APPLICANTS

Date:

Photograph of the biological parent(s)	Photograph of the child	Photograph of the adoptive parent(s)
--	-------------------------	--------------------------------------

**VERIFICATION**

I/We, Mr/Mrs....., aged about \_\_\_\_\_, and I/We, Mr/Mrs....., aged about \_\_\_\_\_, prospective adoptive parents (Applicant(s)) do hereby state on oath and solemnly affirm that the contents of this Application are true and correct to the best of my/our knowledge and belief and the information and documents presented with this Application are genuine. In witness whereof we have signed the same at ..... on this..... day of..... .

Applicants

Prospective Adoptive Parents

**Index**

Ser No.	Documents to be annexed as provided in Schedule VI of the Adoption Regulations	Reference	Page No.

## SCHEDULE XXXII

[See regulation 52(4), 55(2)]

**MODEL APPLICATION TO COURT FOR ADOPTION OF CHILD/CHILDREN BY STEP & BIOLOGICAL PARENT**

In the Court of \_\_\_\_\_ Ld. District and Sessions Judge/Addl. District and Sessions Judge, District Court/Principal District Judge, Family Court or Civil Judge/Addl. Civil Judge (Senior Division), at \_\_\_\_\_ (strikeout whichever is not applicable).

Misc. Civil Application (MCA) No. \_\_\_\_\_/Year.

Child Adoption Resource Information and Guidance System Regd. Number of prospective adoptive parents:

1. Mr. \_\_\_\_\_ S/o \_\_\_\_\_ Aged about \_\_\_\_\_ years, Citizen of \_\_\_\_\_, Occupation: \_\_\_\_\_ Permanent Residential Address: \_\_\_\_\_ P.S. \_\_\_\_\_, Dist. \_\_\_\_\_ State \_\_\_\_\_.

**Applicant**

Biological Father/Father Adopting the Child(ren)

**AND**

2. Mrs. \_\_\_\_\_ W/o \_\_\_\_\_ Aged about \_\_\_\_\_ years, Citizen of \_\_\_\_\_, Occupation: \_\_\_\_\_ Permanent Residential Address \_\_\_\_\_.

**Applicant**

Biological Mother/Mother Adopting the Child(ren)

Application in the matter of adoption of the child:..... (male/female, DOB:.....) under section 56 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) (hereinafter referred to as "Juvenile Justice Act") read with regulations 52 (4) and 55 (2) of the Adoption Regulations.

**The Applicants most respectfully submit before this Hon'ble Court as under:-**

1. That the Applicants are biological parent and step-parent (legally wedded spouse of the biological parent) of the child/children with details as given in **Schedule XX**.
2. That the Applicants are resident of \_\_\_\_\_.
3. That the child/children \_\_\_\_\_ with sex \_\_\_\_\_ (Male/Female) and Date of Birth(s) \_\_\_\_\_ was/were born to the natural parents (biological parent) \_\_\_\_\_ and \_\_\_\_\_ on \_\_\_\_\_ and they are resident of \_\_\_\_\_.
4. That the biological parent (applicant) is desirous of sharing the legal relationship of the child/children with the spouse adopting the child/children(applicant), being legally married him/her and he/she is wanting to adopt the child(ren).
5. That the consent of the other biological parent has been obtained /the other biological parent is deceased. (Strike out whatever is not applicable)
6. That the biological parent and step-parent adopting the child/children (applicants) understand that the adoption of the child/children will create a permanent parent-child relationship with them.
7. That the consent(s) as required for adoption in **Schedule XX** of the Adoption Regulations are annexed with the Application.
8. That the child(ren) proposed to be adopted is a/are minor(s) (below five years) who is/are not able to express his/her/their views.
9. That the conditions laid down in Section 61 (1) of the Juvenile Justice Act (2 of 2016) have been complied with in the case of proposed adoption.
10. That the child ordinarily resides within the jurisdiction of this Hon'ble Court and hence this Hon'ble Court has jurisdiction to pass Adoption Order as per the provisions of sub-section 2 of section 56 read with sub-section (1) of section 112 of the Juvenile Justice Act (2 of 2016).
11. That there is no litigation for custody of the said child/children in any Court of Law within the country or overseas.
12. That the Applicants have not filed any other Application for the adoption of the said child/children in any other Court of Law within the country or overseas.
13. That the Applicants understand that the adopted child/children shall become the lawful child/children of the applicants with all the rights, privileges and responsibilities that are attached to a biological child/children.

14. That the prescribed court fees have been paid and affixed on this Application.
15. **The Applicant(s), therefore, pray that:**
- (a) That the legal relationship of father/mother of above named child/children may please be transferred to the step-parent adopting the child/children (applicant) along with the biological mother/father (applicant) and they be declared as the parents of the said minor for all purposes allowed by the law.
- (b) The Birth Certificate Issuing Authority (name and place) may please be directed to issue/modify the Birth Certificate for the said child/children within five working days from the date of application, as provided in regulation 36 of Adoption Regulations.

Place:

APPLICANTS

Date:

Photograph of the biological mother/father	Photograph of the child	Photograph of the adoptive mother/father

**VERIFICATION**

I, Mr..... (Biological Father/Step-Father Adopting the child(ren)), aged about \_\_\_\_\_; and I, Mrs..... (Biological Mother/Step-Mother Adopting the Child(ren)), aged about \_\_\_\_\_, the applicants, do hereby state on oath and solemnly affirm that the contents of this Application are true and correct to the best of my/our knowledge and belief and the information and documents presented with this Application are genuine. In witness whereof we have signed the same at ..... on this ..... day of .....

Applicants

(Biological Parent and Step-Parent Adopting the Child/Children)

**Index**

Ser No.	Documents to be annexed as provided in Schedule VI of the Adoption Regulations	Reference	Page No.

[F. No. 18-06/2014-CW-II]

RASHMI SAXENA SAHNI, Jt. Secy.

P.R. 47  
SC - 20

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಹೆಚ್. ರಾಜ್‌ಕುಮಾರ್

ಸಹಾಯಕ ಪ್ರಾರೋಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರ),

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಇಲಾಖೆ.